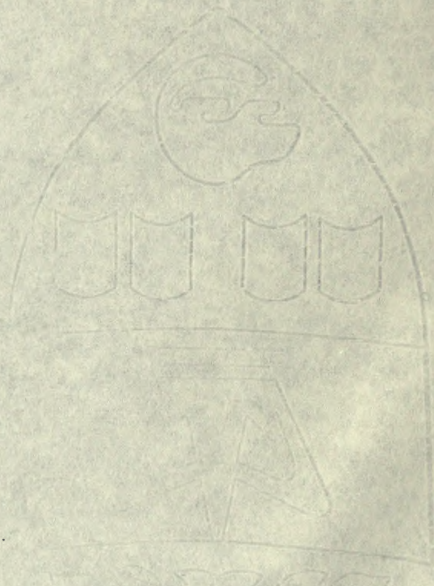
Veasey, W. D.
Timber taxation



THE BULLETIN

OF THE

National Tax Association

EDITED BY A. E. HOLCOMB

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LAST CALL—FAIR WARNING

There is still time in which to encourage the Treasurer and contribute to the financial success of our year's work by payment of dues. It is earnestly requested that each member ascertain whether or not his dues are paid for the year ending June 30, 1920, and if not, that he make remittance.

THE THIRTEENTH CONFERENCE

Through the energetic activities of our friend Bailey, the indications are that this conference will surpass in many respects those of the past. Comfortable quarters are assured and plans are being perfected for the pleasure and entertainment of delegates and visitors, with especial regard for the ladies, who are particularly requested to make the trip.

HEADQUARTERS

Mr. W. N. Beatty, address care Utah Power and Light Company, Salt Lake City, is very kindly assisting in the arrangements for the conference and volunteers to arrange hotel and other reservations and answer inquiries generally. He writes as follows:

"The Hotel Utah, which is to be the Conference Headquarters, has rates for rooms without bath of $2.50 and $3.00 per day and for rooms with bath $3.50 and up. The Newhouse Hotel and the New Grand Hotel have rates ranging from $3.00 to $6.00 per day. These are the principal hotels, the others being lower in proportion."

THE PROGRAM

It is hoped to make the program as helpful as possible to the states in the region visited as well as to other states. It is possible at this date to give an outline of the topics, with the speakers thus far secured.

It will be seen from the temporary outline which follows that already three Governors have kindly consented to be present and participate with addresses. This alone indicates the deep interest taken this year in the subject of taxation.

The purpose to secure a full and complete discussion of state income taxation, with the object of providing some measure of definite and concrete help towards the development of this method of taxation, is to be particularly noted.

Another subject in great need of discussion, in the light of present conditions, is that of inheritance taxes. This will be covered exhaustively.

The widespread controversy over federal taxation is assured of adequate and helpful examination at the hands of the very best talent which the country affords.

The menace of tax exemptions, the growing importance of constitutional questions, the taxation of mines are topics of immediate and pressing importance.

The distinct advance in governmental efficiency and administrative methods accomplished in Nebraska and Idaho through the personal efforts of the Governors of those states will be brought definitely before us by these Executives.

Finally, we are glad to announce this year a feature which should have a regular place on our program annually. This is the session devoted to the problems of local assessors. In the last analysis we recognize that successful taxation rests with the local assessor, the man in immediate contact with the taxpayer. It is therefore most appropriate that these officials should compare notes and secure the assistance which comes from mutual discussion of the common difficulties which arise in the everyday work of the assessor as it is presented in various states.

The tentative program as now arranged, subject to addition or revision as necessity arises, is as follows:

Preliminary Program

FIRST SESSION

Monday Evening, September 6

Organization of Conference: Opening Exercises; Address of welcome by GOVERNOR BAMBERGER; Responses; Annual Address of the President of the National Tax Association, NILS P. HAUGEN, Chairman Wisconsin Tax Commission; General Reception.

SECOND SESSION

Tuesday Morning, September 7

FIRST WESTERN STATES SESSION—UTAH, IDAHO, WYOMING

Representative officials will discuss the problems arising in these States and the remedies applied.

GOVERNOR D. W. DAVIS, of Idaho, will describe the Administrative Consolidation recently accomplished there, and the special topic for Wyoming will be the Taxation of Oil Properties.

THIRD SESSION

Tuesday Afternoon, September 7

1. **Recent Tax Developments in Western Canada**
   PROFESSOR ARCH. B. CLARK, University of Manitoba, Member Manitoba Tax Commission.
2. **Inheritance Taxes**
   a. PROFESSOR CHARLES W. GERSTENBERG, New York University.
   b. Report of Committee of National Tax Association.
      WILLIAM B. BELKNAP, Louisville, Ky., *Chairman*.

FOURTH SESSION

Tuesday Evening, September 7

FIRST ROUND TABLE

FIFTH SESSION

Wednesday Morning, September 8

FEDERAL TAXATION

1. **Paper by Hugh Satterlee, formerly with the Treasury Department, Author of "Regulations 45."**
2. **Paper by George E. Cleary, formerly Assistant to T. S. Adams while Chairman Federal Excess Profits Board.**
3. **Conclusions of the Tax Committee of the National Industrial Conference Board on Federal Taxes from the Standpoint of American Industry.**

    Presented by CHARLES A. ANDREWS, Treasurer Gorton-Pew Fisheries Company, formerly Deputy Tax Commissioner of Massachusetts.

    Professor Adams is expected to be present and participate.

At noon, special pre-arranged Pipe Organ Recital in the Mormon Tabernable.

The afternoon will be devoted to a trip to the famous mine of the Utah Copper Company at Bingham.

SIXTH SESSION

Wednesday Evening, September 8

1. **Tax Exemptions.**
    a. Address by J. R. BURROW, President Kansas Bankers Association.
    b. Report of Committee of the National Tax Association.
    PROFESSOR CARL C. PLEHN, University of California, *Chairman.*
2. **Experiences with Taxation in a Constitutional Convention.**
    DOUGLAS SUTHERLAND, Member Tax Committee of the Illinois Constitutional Convention of 1920.

SEVENTH SESSION

Thursday Morning, September 9

To be held at the bathing pavilion at Saltair Beach on the Great Salt Lake.

STATE INCOME TAXATION

A draft of a Model State Income Tax Law, prepared under the direction of the Model Taxation Committee of the National Tax Association, presented and explained by HENRY H. BOND, formerly Income Tax Deputy of Massachusetts.

Paper by Professor Harley L. Lutz, of Oberlin College. Special Adviser of the Ohio Legislative Committee.

Paper by Mark Graves, Income Tax Deputy of New York.

Paper by Irving L. Shaw, Income Tax Director of Massachusetts.

Paper by Frank D. Strader, Auditor of Wisconsin Corporation Income Tax Returns.

It is expected that Professor Charles J. Bullock, Chairman of the Model Taxation Committee, will be present and participate in the discussion.

EIGHTH SESSION

Thursday Afternoon, September 9

At Saltair Beach

SECOND WESTERN STATES SESSION

Addresses by officials of Nevada, Colorado, New Mexico and Arizona.

Governor Emmet D. Boyle, of Nevada, will address the Conference.

Special Topics.—Nevada: Taxation of Express Companies.
Colorado: Supervision of Assessors and Reassessments.
New Mexico: Work of the Taxpayers' Association of New Mexico.
Arizona: Assessment of Live Stock on the Open Range.

NINTH SESSION

Thursday Evening, September 9

At Headquarters.

LOCAL ASSESSORS' SESSION

This session will be devoted to the problems of the local assessor, the man "on the firing line." The discussion will be led by representative assessors from Utah and the states immediately adjoining.

TENTH SESSION

Friday Morning, September 10

1. **A Responsible Form of Government.**
   GOVERNOR SAMUEL R. MCKELVIE, of Nebraska.
2. **The Taxation of Mines.**
   a. Appraisement and Assessment of Non-Metalliferous Mines in Utah.
      PROFESSOR WILLIAM PETERSON, Utah Agricultural College.
   b. The Taxation of Mines from the Operator's Point of View.
      Representative of the American Mining Congress.

ELEVENTH SESSION

Friday Afternoon, September 10

1. **Annual Review of Legislation of 1919 and 1920.**
   PROFESSOR O. C. LOCKHART, National Bank of Commerce, New York.
2. **Round Table Discussion.**
3. **Business Meeting of the National Tax Association.**

ADJOURNMENT

TRANSPORTATION

It is highly desirable, in the interest of a successful conference, that all should be in attendance at the opening session for organization Monday evening, September 6. It is suggested that, so far as possible, members arrange to go direct to the conference without stopovers which are likely to cause unexpected delays. After the conference, parties will naturally be organized for side trips and excursions, according to the various wishes.

Obviously those from the east will wish to arrange to make the trip in a party. To accomplish this it will be necessary to adopt some concentration point. The point most suitable is Chicago, from which several routes are available, but the most direct one appears to be via the Union Pacific System. The Overland Limited, train No. 1, leaving Chicago via the Chicago and Northwestern R. R. at 7:10 P. M. Saturday, September 4, is due to arrive at Salt Lake on Monday the 6th, at 4:30 P. M., thus in ample time for the first session.

Those who wish to adopt this suggestion may communicate with the Secretary, who will put them in touch with a Chicago representative who will make the necessary arrangements.

The arrangements for side excursions and the return will necessarily rest largely with the individual desires of the members.

As noted below, a general excursion to the Yellowstone is planned, from which point some may prefer to proceed east or west. Others may wish to return to Salt Lake and proceed east or west from there. Still others may choose to visit Zion Park in Southern Utah, the newest National Park.

Railroad tickets for those who will go direct to the conference without stop, should be bought to West Yellowstone, Wyoming via Salt Lake City and the Oregon Short Line Railroad, return trip routing to be at the option of the purchaser. A comparison of round-trip fare from the following cities to Salt Lake City and to West Yellowstone via Salt Lake City, is as follows:

From	To Salt Lake	Yellowstone
Chicago	$60	$58
St. Louis	59	59
Omaha	49	43
Kansas City	49	49
Denver	37	38
New York	109	107
Philadelphia	104	102
Pittsburgh	85	83
Washington	102	101
Boston	116	114
Detroit	74	73
Atlanta	92	92
Cincinnati	75	73

YELLOWSTONE PARK EXCURSION

A special excursion is planned, leaving Salt Lake Friday evening at 8:30 P. M., arriving at the West Yellowstone entrance at 8 A. M. After the tour of the Park persons may either return to Salt Lake and make the return trip home from that point or proceed east or west from the Gardiner entrance on the Northern Pacific or the Cody entrance on the Burlington.

The following from one of the local railroad officials may be helpful to those intending to visit the Yellowstone:

" The Park may be visited at practically no additional expense except for transportation and hotels in the Park; that is, the railroad fare to the West Yellowstone entrance is virtually the same as the summer tourist fare to Salt Lake City; in some instances possibly a trifle more, and in others even a trifle less. In order to take advantage of this very favorable arrangement, attendants at the National Tax Association meeting here should in every case purchase their tickets to the Park and return from the initial point and visit Salt Lake City either going or returning, or in both directions if desired.

The Yellowstone Park rate is a summer tourist rate and the tickets are on sale daily up until approximately September 10th and carry a return limit of October 31st. Stopovers are allowed at pleasure within the final limit. As a matter of information, the Yellowstone Park season closes September 15th; that is, September 15th is the last date that passengers may enter at West Yellowstone and make the tour of the Park.

The additional fare covering accommodations in the Park will be $54.00 via the hotel route and $45.00 via the camping route. These latter amounts cover necessary automobile transportation and respective accommodations at hotels and camps for the so-called five-day trip (4½ hotel days). Tickets including these accommodations should be purchased at initial point as part of the excursion ticket and thus avoid any unnecessary delay either in this city or at the Park entrance.

The rate for lower Pullman berth between Salt Lake City and West Yellowstone is $2.50 in each direction.

All of the above fares are the amounts for the transportation itself and, of course, are subject to government war tax of 8% additional, exclusive of accommodations in the Park.

The itinerary through the Park is approximately as follows:

1st day: Old Faithful Inn (The Geyser). 2nd day: Lake Hotel (on Yellowstone Lake). 3rd day: Grand Canyon. 4th day: Mammoth Hot Springs. 5th day: Return to West Yellowstone.

From eastern points passengers may also have the privilege of entering the Park via West Yellowstone, the western entrance, and going out via Gardiner and the Northern Pacific, or Cody and the Burlington Route.

If it is decided to take this excursion we would appreciate being advised as far in advance as possible so that we can notify the Hotel and Transportation Companies in the Park and make reservation for you."

A SUGGESTION FROM MONTANA

Mr. John Edgerton, Executive Assistant of the Montana State Board of Equalization, writes that it is possible for those going from the east to use one of the northern routes and go through the Glacier and Yellowstone National Parks, then on to Salt Lake, and return over one of the southern routes for the same fare, or nearly so, that would prevail if they go and return over the same route. He says that if some of the members will do this he will be glad to take the matter up with some of the many Montana "Boosters" and secure some attention and entertainment for them while they are in the state.

He continues: "Last year after the Governor's conference at Salt Lake, Gov. Bamberger brought his guests and their wives by autos from Salt Lake to the southern entrance of the Yellowstone Park, then through the Park to the northern entrance, where they took the Northern Pacific to

their homes. What was good enough for a lot of Governors can be none too good for those of the Association who can spend the time and money, provided the cost does not verge on the realm of seeming extravagance or profiteering.

"The large autos of the Glacier and Yellowstone Parks maintain service between the two parks, stopping over night at Helena en route. It is a wonderful trip. Again, perhaps, I am a little selfish in wanting something of this kind for myself and for Montana. As we shall not have the meeting here, perhaps we can have some of the delegates. About the only thing we will have to disappoint them in will be that we are no longer wild and woolly, have no Indians that will scalp them and we do not shoot up the town nightly."

A SUGGESTION TO SPEAKERS

A consistent attendant upon our conferences makes the following suggestion to speakers, which is given for their consideration:

"I have been in attendance at some three or four of the National Tax Conferences, and sincerely trust that I shall be able to attend future ones. I have observed that the most interesting features of the Conferences are the speeches made rather than the papers read. By this I mean, that a speaker secures much better attention than a reader, and in this day and age to secure and hold attention of audiences, the subject and treatment of same must be interesting, entertaining or instructive. I have always observed that the person reading a paper, in most instances, if not all, can make as good a speech as the paper prepared by him, and in my humble judgment it has a much greater effect if the context as well as the contents is given in a sort of an extemporaneous manner by reason of the attentive hearing given.

As an illustration, you will doubtless recall at the Des Moines Conference in 1912, the Governor of the State of Iowa, I believe, when called on to present his paper, laid it on the table and remarked, 'Here's my paper, and I am going to tell you what is in it instead of reading it to you,' and as a result he received the greatest applause of any speaker or reader present, and everybody listened with an attentive ear to what he had to say. While there were many good and great papers read at all the conferences, there is always more or less restlessness during their reading. Therefore, your self appointed committee on the rules and orders of business, beg leave to submit the following report:

That those who are to prepare their manuscripts for our next Conference, be requested to prepare them with the same prayerful carefulness for publication, as in the past, and that they be requested to either memorize them for delivery or in the language of the speaker above quoted, that they 'tell what is in them' without reading them in full."

NOTES AND NEWS ITEMS

In addition to the tax measures enacted by the 1920 session of the **New York** legislature noted in the April BULLETIN, the following have since become laws:

Chapter 191 adds two new sections—351-a and 351-b—to the personal income tax law, reimposing the tax on non-residents for 1919 income and declaring the tax a debt to the state. It also amends section 362 granting non-residents the same exemptions as residents, thus curing the defect disclosed by the supreme court's opinion; when husband and wife living together, make separate returns the exemption shall be equally divided between them.

Chapter 690 amends section 373, limiting the comptroller to three years in which to audit the return, except in the case of wilfully false returns and increasing his power to examine the taxpayer.

Chapter 691 amends sections 350, 363, 366, 370, 371, repeals 378 and adds section 373-a. These changes define a resident as one residing in the state at any time during the last six months of the year; clarify the credit allowed a non-resident subject

to income tax at his residence; revise the withholding provisions as to non-residents; make the time of filing return and payment April 15 instead of March 15, and other minor changes.

Chapter 692 repeals and re-enacts section 376 and amends sections 377 and 379. These changes relate to penalties, additional taxes and interest; to payment by fiduciaries and withholding agents and to compromise of additional taxes and interest.

Chapter 693 amends section 360, allowing deduction of all interest paid, limiting the losses deductible by a non-resident to such as relate to tangible property located in New York and allowing deduction of contributions to charitable organizations of other states.

Chapter 694 amends section 382 and is intended to allow some share of the distribution of the yield to go to villages.

Chapter 695 amends sections 359, 365 and 369, restating and clarifying the provisions as to fiduciaries.

Chapter 640 amends numerous sections of the corporation franchise tax on net income largely to clarify the administration but introducing more strict provisions as to mercantile corporations having only agencies in the state.

Chapter 644 repeals the much-hated penalty inheritance tax—section 221-b of the general Tax Law.

Chapter 765 amends section 221 modifying the disastrous effect of the operation of section 221-b upon bequests heretofore made to exempt institutions.

Chapter 646 amends Article 15 of the Tax Law known as the Investments Tax Law. This necessarily followed upon the enactment of the income tax.

Chapter 647, also a result of the income tax, adds a new section — § 4-a — to the Tax Law, exempting from property taxation all intangible property except bank stock.

Chapters 643, 645, 648 and 649 amend sections 61, 45-a, 293 and 294 of the Tax Law relating to matters of procedure.

The Governor vetoed a bill which sought to impose a tax upon freight-car companies and another which would have amended the law as to the taxation of forest lands.

Chairman Thompson of the **Mississippi** Commission advises us of the legislative proposals and enactments at the recent session. The state was confronted with a far greater demand for money than at any other session in the history of the state, the appropriations totaling $23,921,921, as compared with $9,874,813 for the 1914 session.

The Commission recommended the substitution of an income tax for the privilege license taxes, urging that income was an equitable measure for taxation and the fairest standard for taxing business, while privileges have no equitable standard and injustice is imposed by the enforcement of a tax on them. The Legislature did not follow their recommendation, but even increased the taxes on some privileges more than one hundred per cent, with an average increase of forty per cent.

They recommended that the state tax rate be fixed after the final determination of the total assessment of the entire state, following the completion of all of the assessments instead of as now, more than a year before the total assessment of the state is known, a practice which has always been followed in this state. This recommendation also was not followed, a tax of nine mills being imposed for each of the years 1920 and 1921, eighteen months before the amount of the total assessment for 1921 can be determined.

The Legislature did follow their recommendation as to when the county tax rate should be imposed by directing the County Board to impose the county tax levies at its November meeting. Before that meeting all changes in assessments will have been made, and the Board may make its levies intelligently.

It followed also the recommendation by giving the Assessor an additional month to complete and file his rolls, allowing five months instead of four, all that can be allowed without a Constitutional change.

An amendment provides that upon an arbitration of assessments the Tax Commission, instead of the County Board, will name one of the arbitrators, when the assessment involves an order of the Commission. The taxpayer names the second arbitrator, and these two, the third.

A law of much importance to non-residents was enacted which requires the Chancery Clerk and County Superintendent of Education to furnish information as to the creation of, and the metes and bounds of,

school and road districts. It is the duty of the Commission to assess the property of public service corporations for each of these districts. Without such information the performance of such duty was impossible, because they could not know of the existence of the districts or of the location of their bounds.

The statute for the taxation of national banks was not clear as to whether the tax was imposed on the bank or on its stockholders. An amendment was made to clarify this statute. The amendment imposes the tax on the stockholder and makes the bank the tax-collecting agent, giving it authority to pay the taxes for the stockholder and to withhold them out of the earnings of his shares. No change was made in the basis of assessment. It remains the value of the capital stock increased by the surplus, undivided profits and accumulations.

Some bills aimed at the Tax Commission as a result of a political campaign waged in 1919 were killed, as Honorable Lee M. Russell, its friend, was elected Governor, and many of its friends were elected to the legislature, among them Senator A. S. Kyle, the author of the law creating the Commission, and Chairman of the Finance Committee of the Senate and Honorable A. H. Stone, Chairman of the Ways and Means Committee of the House of Representatives. The House Committee reported unfavorably a bill to repeal the law providing for the Tax Commission. A bill to make the Tax Commissioners elective failed to pass the House. Another bill to give the county Board an appeal to the Chancery Court of the district in which the county is located also failed.

A bill was adopted by both branches of the Legislature, providing that the Chancery Court fix the assessment for the determination of inheritance taxes. It was submitted to the Governor for his approval. He did not approve the Act. Under the Constitution, he is prohibited from approving it until the next session. Then, within three days, he may approve it, or may veto it. If he does neither within that time, it will then become the law without his approval.

The House passed a remarkable bill providing that the assessment of personal property be used as the basis of settlement of claims for insurance. The Senate failed to adopt the bill.

Commissioner Jess of **New Jersey** writes that the Legislature now in session has not made any radical change in the existing tax laws. With the exception of an act to exempt raw materials and stocks in trade and in process of manufacture, and one to exempt "the metal contents of ores and unrefined metals owned by non-residents of New Jersey and stopped in transit through the state for the purpose of refining," the laws passed were more of a local than a general interest.

The Special Tax Commission appointed in 1919, which reported this year to the Governor and Legislature, recommended definite changes in the tax policy of the state, such as abolishing the personal property tax and substituting an income tax and a business tax; the effective control of local assessments; tenure of office for assessors, and restriction of exemptions. A bill establishing tenure of office for assessors was introduced, but failed of passage. The acts exempting stocks in trade and ores in process of refining, above referred to, were results of the Commission's investigations, but otherwise no action was taken by the Legislature on the Commission's recommendations.

The Editor is called upon to make the sad announcement of the sudden death on May 2 of Judge Fellows of the New Hampshire Tax Commission. The keen loss felt by him will be shared by many who have been privileged to know this kindly and in many ways unique personality. Nothing too good can be said of him as a man or as a public official, because we who have known him feel the weakness of words in such a connection. The Association loses a staunch friend and the tax reform movement a wise advocate in the death of Judge Fellows. Some of us will readily appreciate the apt expression of a common thought by his Associate, Judge Brown, who writes: "We miss Judge Fellows every day, not less but more. The world is less picturesque and cheerful than before he was taken away, and poorer withal."

Members will be interested to know that Judge Brown of the New Hampshire Commission is to be a candidate for Governor of that state. It goes without saying that his election is assured, as it is impossible to imagine a candidate more thoroughly competent or one who should enjoy the confidence of the entire state to such a striking degree.

PROTECTION OF MINES AGAINST UNJUST TAXATION

T. O. McGRATH
Shattuck Arizona Copper Company

The equitable taxation of mines was an unsolved problem that had perplexed the minds of state and county and mine officials many years before the enactment of the present federal tax laws which now further complicate this problem and add to the unequal tax burden that had already been carried by the mining industry.

Probably one reason why this problem of mine taxation has not been satisfactorily solved has been the lack of understanding of wherein the business of mining differs from that of other industries and failure to recognize that to endeavor to apply to mines a method of taxation that does not make allowances for this difference is bound to work a hardship upon the mines.

TAXES PAID BY MINES

The taxes paid by mines consist of two groups, viz.: federal taxes and state and county taxes. The federal taxes consist of capital stock tax, income tax and excess profits tax.

A capital stock tax is paid by all mines whose capital is in excess of $5,000, which tax is more or less of a nominal one.

The federal income tax is paid by mines upon the total amount of the net return for each year, regardless of whether or not the mine has proved its investment.

The excess profits tax is paid by all mines whose income is in excess of 8% of their invested capital for any one year, regardless of whether or not the value of the property investment has been proven or that any income had been received in previous years.

All mines pay state and county taxes to the state and county in which the property is situated regardless of whether or not the mine is a prospect or a proven property.

The state and county taxes are based upon the assessed value of the mining property and the improvements, and the rate of tax is determined by the amount that must be raised to take care of the state and county expense. Therefore there can be no complaint made by the mines as to the tax rate that is not applicable to other industries, as this rate can be reduced only by reducing the state and county expense, or by building up and enlarging the industries of the state and counties. However, the question as to the fairness of the valuation placed upon mines can be raised and the method of determining this value can be investigated to ascertain whether or not the valuation assessed is fair and equitable in comparison with the valuation placed upon other property.

The failure of the federal government to recognize the inherent differences of mining as compared with other business has resulted in making the present income and excess profits taxes work a hardship upon mining, and if the federal tax laws and the Treasury Department's regulations governing the interpretation of these laws are not amended, there will result a slowing-up in the future development of mines. As mining is a wasting industry, any let-up in new development will eventually result in a gradual reduction in the mineral production of the United States.

While it is the belief of many that no mine in the course of development should pay a capital stock tax until the value of the mining investment has been proven, nevertheless, as the capital stock of most development mines does not exceed to any great extent the amount exempted from taxation, the amount of such payments by development mines is not sufficient to warrant any considerable comment.

PROTECTION AGAINST UNJUST FEDERAL INCOME TAXES

The injustice of the present federal income taxes is due to the failure of the Treasury Department's Regulations to properly define what is income from mines, making all returns received from sale of metals, etc., in excess of the operating expense, income subject to income taxes.

The law and the Treasury Department's Regulations do not make any distinction between net returns from a prospect and income from a proven mine. For instance, it is customary for the prospect mines, or mines in the course of development, to ship all the commercial ore taken out in the development work, in order to help carry expense of development, and when the prices of metals are above the average, to ship, if possible, all the ore that was discovered by development work, regardless of whether or not there had been discovered total ore reserves of a net value in excess of the actual investment sufficient to insure the return of investment, or as much thereof as possible, when times are favorable.

Therefore it often happens that development mines that have not yet proven their investment will show at the end of a year a large surplus above the regular development expense. This is nothing more than a liquidation of the investment which has not yet been proven and which is as a rule reinvested in further development work or equipment.

However, according to the requirements of the income tax law and regulations of the Treasury Department, there will have to be entered against such a surplus a depreciation and depletion charge, and an income tax paid on the remainder, which is considered income, regardless of the fact that there can be no such thing as either depletion or income until the investment has been proven.

Therefore to pay such a tax before the value of the investment is proven is simply paying a tax upon a liquidation of capital. Should development work in the future fail to discover ore of a net value in excess of the original investment, such tax payments will prevent the return of the original investment to the investors and reduce the amount that can be reinvested in further development work.

To cure this injustice there should be a provision in the Treasury Department's Regulations defining income from mines, so as to protect the development mine from paying an income tax on any liquidation of its capital invested.

PROTECTION AGAINST UNJUST EXCESS PROFITS TAXES

As an excess profits tax must be paid on all income for any one year in excess of 8% of invested capital, the income of a proven mine which has passed from the development stage into the income-earning stage must bear this excess profits tax on any portion of its first year's income that is in excess of 8% of the invested capital, regardless of the fact that the business may have labored for years, without any return upon its investment, to bring the property to the income-earning stage.

The average time required to bring the prospect mines to the income-earning stage is approximately six years, during which time no return is received on the investment. However, should a proven mine wish to force its production during the first years of income-earning operations in order to take advantage of high metal prices and to insure its stockholders an immediate income return sufficient to give 8% not only for the present year but for the many preceding years when no return was received, it will be able to do so only by first paying a graduated excess profits tax on all net income for each year above the stipulated exemption.

It is plain to anyone who has considered this subject that to require the income from a proven mine to bear an excess profits tax before there shall have been returned to the stockholders at least 8% per year on the average invested capital for each year that it has been invested in the business is unfair and unjust; also that the amount that the receipts may exceed the expenses of any development mine should be free of all income and excess profits taxes until the net value of all ore discovered is in excess of the amount of the investment, otherwise the development mine has no assurance that it will not have to pay federal taxes upon a return of capital.

STATE AND COUNTY TAXES

At the present time there is no uniformity in the methods of states and counties to determine mine valuation for the pur-

pose of taxation. Also, as a rule the states and counties have failed to recognize that the nature of the mining business is different from that of other business, due probably to the great difficulty in determining the true value of a mine. There has resulted generally excessive state and county taxes.

Many methods of valuation of property within the states and counties for the purpose of taxation have been tried. The present practice most favored is to endeavor to determine as near as possible the true value.

So far no method used in determining mine valuation for purpose of state and county taxation has been satisfactory to all concerned, due to the fact that the determination of the actual mine property value is a matter of great difficulty and uncertainty, requiring expert knowledge and the use of many estimates and approximations which may not prove to be correct in the end. Therefore some states, in order to avoid a laborious process of valuation, have adopted the simple method of capitalizing the earnings of proven mines and assessing unproven mines a nominal value per acre of mineral ground, the equipment and personal property of both classes of mines being assessed at cost less a reasonable allowance for depreciation.

I am of the opinion that such a method could be made uniform for all states and counties and would give satisfactory results. When such a method is used the mines are grouped into two classes of productive mines and non-productive mines. The amount of taxes received from non-productive mines is small, which of course meets with the general approval of the owners of such mines. However, in the case of productive mines, the value of the mineral ground is determined by taking for the past five years the average operating income before deduction is made for depletion and depreciation and capitalizing this average at a certain percentage, according to the assured life of each mine, as shown by ore reserves, etc., the mines being grouped as follows:

First: Mines whose ore reserves do not show evidence of exhaustion.

Second: Mines whose ore reserves show evidence of exhaustion.

Third: All producing mines with irregular output.

The income of the first group is capitalized at a figure supposed to represent a fair profit for the mining business as compared with other industries in the state. The income of the second group is capitalized at a higher figure, while the income of the third group is capitalized at a still higher figure, all determined with the endeavor to obtain what is fair.

Such a system of taxing non-productive and productive mines has been in effect for a number of years in the state of Arizona, and while entirely satisfactory to the state and counties and to the majority of non-productive mines, it has resulted in making the producing mines pay about 60% of the state and county taxes, and has given other lines of industry a lower tax rate than that of other states of much larger population and less state expense than that of Arizona.

While such a method is no doubt based upon the right principles and has the advantage of simplicity and ease of operation, it has its disadvantages as well. On account of the difficulty in the past of obtaining net earnings, the gross earnings have been taken and an arbitrary rate of capitalization has been used instead of a return equal to that earned by successful concerns in other lines of business. This has resulted in an excessive tax on the producing mines of the state.

This system was possibly the best that could be obtained at the time it was worked out and would no doubt be as near an ideal system as could be obtained if the following modifications were adopted:

First: There should be included in the productive group only those mines whose net value of the total ore discoveries, whether mined or in place, exceed the amount of the actual investment in mining claims, equipment and development expense.

Second: All mines that have not proven their investment, regardless of whether or not they are marketing ore from development work or are mining all development ore discovered, should be included in the non-productive groups and the value of their mine property so assessed.

Third: In the case of productive mines, instead of using the average operating income before deduction for depletion and depreciation as is now done, the net income that is accepted by the Federal Govern-

ment as income subject to income taxes should be used.

Fourth: In the case of productive mines the average net income should be capitalized, for the first group, at a figure not less than that obtained by dividing the total assessed value of stock of successful commercial enterprises into the amount of their total net income. In no case, however, should the value exceed the present worth of the ore in place as determined by methods approved by the federal Government.

The suggested modifications 1 and 2, as to regrouping of the mines, could be easily accepted, would not result in any great difference in the state and county taxes, but would be of great advantage to those engaged in the development of mines.

Suggestion 3, to use net income instead of gross income, could also be easily adopted, provided the development mine is eliminated from the producing group and the same amount of depreciation and depletion as allowed by the Government, is deducted by the state.

The reason for the present unfairness in the state and county taxation of mines, when the average income is capitalized to determine valuation, is due to the capitalizing of the average earnings at a figure lower than that obtained in other lines of business. As an illustration, it is the practice of most merchants so to gauge their selling prices as to give an average net income of from 5% to 10% of the sales, after deduction of all expense, including cost of stock and depreciation of equipment. With the average successful merchant, the turnover of stock is from two to four times per year, or an average, say, of 7% on sales and an average turnover of the investment of three, making net earning of about 21% on the actual investment, on which investment they are taxed.

In comparison with this, under the Arizona system the average earnings of the first group of mines, which is taken before any deduction is made for the cost of stock and depreciation of equipment, is capitalized at 15%.

I am of the opinion that if the present Arizona system of determining valuation of mines could be modified to meet the above suggestions, there would be obtained an ideal system of valuation for state and county taxation of mines, that could be made uniform for all states and counties.

VALUATION OF MINES: DISCOVERY, ETC.

In order that it may be known when a discovery of a mine is made, also in order that the requirements of the present federal tax law as to the determination of the market value of mines as of March 1st, 1913, in case of purchase prior to that date, may be ascertained, definite methods of valuation should be approved by the Treasury Department, which would also help to clear up the matter of state valuation for the purpose of taxation.

In order to decide when a mine has been discovered or when the net value of the total ore discoveries exceed the investment there must be determined the following facts:

(a) The total dry tonnage of commercial ore that has been discovered.

(b) The commercial mineral contents of discovered ore.

(c) The recoverable and marketable contents of the ore.

(d) The cost of recovery and of marketing the recoverable contents.

(e) The prices to be received for the recoverable contents.

These facts must be ascertained before it can be known whether or not a discovery of a mine has been made and definite methods of ascertaining these facts should be decided upon by the Treasury Department, especially in determining the ore reserves and what metal prices are to be used.

To ascertain the value of a mine as of March 1st, 1913, or the present worth as of any certain date, requires the use of two additional factors, as follows:

(f) The time required to mine and market the ore.

(g) The rate of interest to be allowed in determining the present worth of the mine as of any certain date.

These factors would no doubt be just as difficult of determination as factors "a" and "e". However, they are matters that must be settled before depletion can be satisfactorily determined for those mines that had acquired their properties prior to March 1st, 1913.

The determination of the present worth of a mine as of a certain date must be an

estimation at best, due to the fact that it is an endeavor to forecast what will happen in the future in the way of fluctuations in the price of labor, materials and metals and ability to operate continuously, etc. Nevertheless, some equitable method of determining present worth of the mineral deposits of mines should be adopted immediately by the federal Government.

SUMMARY

To summarize the matters that have been covered in this article concerning state, county and federal taxes of mines, I will say that the mines should unite for their mutual benefit in an endeavor to obtain the following:

First: That the state and federal Governments should define a proven mine or "Discovery of a Mine" as the discovery of commercial minerals, whether mined or in place, of a total net value in excess of the total amount of the investment in mining claims, development expense and equipment.

Second: That the state and federal Governments should decide upon a definite method of determining the net value of the ore discovered, as well as definite methods of ascertaining the present worth or market value of a mine as of a certain date.

Third: That the Treasury Department's Regulations should define income from mines subject to the income tax, as income from proven mines only.

Fourth: That the Treasury Department's Regulations should define income from mines subject to excess profits taxes as that amount of each year's income that is left after the average investment in the business has earned at least 8% per annum for each year of the investment, i. e. the yearly income from mining operations should not be subject to excess profits tax except as it is in excess of an amount necessary to give an earning of 8% per annum on the average investment to date.

Fifth: That for the purpose of state and county taxes, endeavor should be made to obtain a uniform grouping of mines of each state, as follows:

(a) Non-productive and non-income-earning properties.

(b) Producing and income-earning properties.

Each of these groups should be divided into sufficient classes to enable the placing of a fair valuation on each class.

Sixth: That for the purpose of state and county taxation, a nominal assessed value per acre of all non-productive and non-income-earning mines should be obtained, and also a fair valuation of productive and income-earning mines by means of capitalizing the actual net income as reported to the federal Government, at a rate for the first group of productive mines that is not less than a rate obtained by dividing the total income by the total assessed value reported to the state for the purpose of taxation, by successful commercial firms, the rates for the other classes of productive mines to be as much higher than the first class as fairness and justice will allow.

Seventh: That to take care of the extra hazards and risks involved in bringing the mine to the proven stage, as well as those that must continually be taken in order to insure the continuation of the business, due to the fact that mining is a wasting industry, either a higher rate of income exemption from the excess profits tax should be granted or there should be allowed as "Reserve for Hazards" an amount not to exceed 10% of the yearly expense of mining.

In order to accomplish the objects as above set forth there should be a campaign of education to acquaint the general public and tax law-making bodies of the inherent difference between mining and other lines of business.

WHEREIN MINING DIFFERS FROM OTHER INDUSTRIES

Almost everyone who is acquainted with mining knows that the hazard and risk is much greater than in other lines. However, it is doubtful whether any except those who have made it a study could tell exactly wherein mining differs from other industries. The principal differences are as follows:

First: The initial investment in mining claims, development and equipment must be proven by the discovery of commercial ore of a net value equal to the amount of investment before the investor can be reasonably assured of the return of his capital, which will then be subject only

to the fluctuations in the metal, material and labor markets.

In other lines of business the amount of investment in merchandise, raw materials, property, etc., has a certain marketable value from the moment of purchase, and can be disposed of at any time thereafter, for the amount of capital invested therein, plus a reasonable profit, subject to fluctuations in the material and labor markets and competition.

Second: The income of a mine is determined principally by the amount that the net value of the ore discovered is in excess of the investment in mining claims, development and equipment, while the income of other industries is determined by the price at which the article can be sold above the cost of production, and the quickness with which the investment is turned.

Third: It takes from three to seven years as a rule, after necessary development equipment has been installed on a mineral property, to prove the value of the property, during which time the investor stands to lose not only the interest on his money, but all or part of his principal, depending upon the amount of the net value of the commercial ore, if any, that may be discovered. Other lines of industry have the value of their investment established immediately upon the acquisition of their stock and are able, as soon as equipment necessary to handle the business can be installed, to offer their product for sale at as high a figure above the investment cost as competition and the law of supply and demand, etc., will allow.

Fourth: Mining, in taking the risk involved in proving its initial investment as well as being deprived of any return on its investment during this period, being a wasting industry, must obtain a higher rate of income, after the mine has been proven to be income-earning property, than is obtained by other business in order to insure, before exhaustion, the same average return of income as other lines of industry.

Fifth: To operate a producing mine requires extraction of ore and sale of its recoverable contents, which eventually exhausts the property of all commercial contents. Therefore to continue the life of the business and to keep the organization intact, requires that the same risk and uncertainty and delay in return on investment as in the beginning of the business must again be taken in the case of new properties before the exhaustion of each proven property. In the case of other lines of business that have an established trade it is simply a question of reinvesting the liquidated capital that was invested in stock, in the purchase of new stock of finished or raw materials, which, in the case of successful commercial enterprises, is done three or more times during each year's operation, without any hazard whatsoever.

In addition to the main points set forth above, mines are subject to accidents by fire, floods and cave-ins, of greater magnitude than is the case in other lines of business; this at times results in an operating loss even after the mine has been proven to be an income-earning property, against which there is no insurance except in the case of accident to employees.

A proven property has not only to assume the risks and uncertainties above specified, which are not assumed by other lines of business, but must also bear the risks common to all business, of fluctuations in the price of materials, wages of labor, and cost of supplies, as well as strikes and acts of nature, which at times may result in a proven mine operating at a loss for any one period.

TIMBER TAXATION

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An address before the Association of New Hampshire Assessors, December 19, 1918

The subject of taxation of timber and timber land and the question of whether it should be taxed at its full value, or otherwise, has been discussed by a great many people, at constitutional conventions, before the legislature, and at public hearings. It is a question that has about as many different views as there are different people.

It is quite evident that the subject cannot be satisfactorily disposed of at a constitutional convention. Those interested in growing timber naturally ask for and want exemptions for a period of time at least; those not interested in timber lands feel that if their property is to be taxed at its full value, that timber lands, or growing sprout land, as it is termed, should be taxed likewise. There are some good reasons for this view, but there are some good reasons why the timber and sprout lands at least should not be taxed at full value.

The best way to illustrate the subject is by comparison. Take a farm, for instance, in poor state of cultivation, producing hardly anything, — that particular farm should be taxed on the basis of its producing value. Another farm of the same acreage in a high state of cultivation would be assessed for perhaps three hundred or four hundred per cent more than the adjoining first-mentioned farm. The reason is because it has possibilities and is actually producing at a profit to its owner.

If the same rule is applied to timber lands and they are taxed according to their producing value, without taking into consideration the actual crop grown thereon for a period of years or to a time when the crop itself has become of material value, then and not until then should the crop or standing timber be taxed.

Pine land, for instance, produces lumber that shows a growth of about one-eighth inch on a side, or one-quarter inch a year in diameter. A tree that has grown to be 6″ in diameter, one-half its length, would require twenty-four years of time. That tree would measure 4 cu. ft. or 40 board ft., assuming that it was 30 ft. high. Until this growth has reached a size of at least 6″ in diameter, one-half its length, it has practically no value for any purpose other than to grow.

It will be noticed that there has been twenty-four years of idle time in producing a growth upon a tract of land that would average 6″ in diameter, one-half its length.

If trees should stand 100 to the acre, this particular piece of land in question would produce 400 M. ft. in twenty-four years. At an average price of $6.00 per M., an acre of this land would only be worth $24.00 for logging purposes at the end of twenty-four years. A lot containing 100 acres would be worth $2,400. If this lot of pine were to be taxed at its full value, the owner is more than likely to come to the conclusion that he has paid a tax upon this land for twenty-four years and would want to convert it into money.

If, on the other hand, it had cost but a very small sum to carry this growth, the owner would realize that by carrying it twenty-four years more, the tree would be 12″ in diameter, one-half its length and 60′ tall, and would measure 34 cu. ft. or 340 board ft., and he would be willing to hold the lot that much longer, as his tree would increase from 4 cu. ft. to 34 cu. ft. in the next twenty-four years, that is, the first twenty-four years he only grew on his land of 100 acres 400 M. ft. of lumber, whereas in the next twenty-four years he would have 3,400,000 ft., worth $10.00 per M., or instead of $6.00, $34,000 worth of property at the end of forty-eight years. I am assuming a good piece of timber, better than the average, only by way of illustration.

The reason for this extraordinary growth and increase in value is from the fact that the larger the tree, the bigger the proportion of accumulative growth per year in that tree. Anyone not familiar with a caliper rule would be very much surprised to see how fast the tree increases in value as its diameter increases. A tree 4″ in diameter, 16′ long, would show 1 ft. upon the caliper rule, yet it would take about twenty years to grow it. Leave that same tree growing twenty years more and it will measure 150 board ft. A tree growing in the same proportions as the ones just mentioned, 96 years old, would be 24″ in diameter, one-half its length, would be 90′ tall and measure 198 cu. ft. or 1980 board ft.

It is very evident that a small growth of young pine or any other kind of lumber is of very small value and yields its owner a very small amount per year until it has reached an age of twenty to twenty-five years; therefore it should be taxed at a nominal figure.

It has been urged quite seriously that a constitutional amendment should be passed exemting entirely from taxation young growth of this nature, for a period of years, and then that the timber should be taxed at its true value from the end of that period on. Others urge that the question

of taxation should be left until the timber has been sold and removed, when the purchaser or owner at the time of its conversion should pay a percentage of its true value to the town in a lump sum.

I have had an impression that a law could be passed whereby after a period of twenty years, or at a time when the standing growth could be converted into boxboard lumber, the lot should be assessed and a charge made on the town's books against the lot, the same as though a tax was to be paid, that this charge should be made from year to year and that the town should have a lien upon the lot for the aggregate amount of the different charges until such a time as the owner should see fit to dispose of said property and that the amount of the charges should be paid to the town at the cutting of the same. In this way the owner and purchaser could both refer to the town records and know how much tax there was to be paid upon the lot. The owner of the property could refer to this record from time to time and make up his mind when it would be to his advantage to dispose of his lot. The real object of this method would be to make it of interest to the owner to retain the lot as long as possible. The town would receive more benefit in the way of taxation the longer the lot was left standing, the owner would receive more benefit from his lot because it increases so much faster in quantity and quality after it has become 10″ or 12″ in diameter than he did before, and the purchaser would receive a better class of lumber.

I believe the time will come when the owner of standing timber will be prevented from cutting the same until it has reached a substantial growth and perhaps be obliged to re-set as many trees of the same kind as he cuts from his land. Unless some such arrangement can be made by the constitutional convention, I believe it will be possible and feasible for the tax commission to adopt some kind of a universal rule for the various assessors and selectmen of the state in assessing the tax upon the various kinds and growths of timber. Some rule along this line could be adopted.

Of course, the whole matter of just taxation is based upon the judgment and experience of the various assessors. It is to be expected that they will make some errors, that they will get some pieces of property assessed too high and others too low, but on the whole they can get at the true value very closely through their own experience and the experience of experts which the town has the right to employ.

I believe that the full valuation theory is really the only one that is just and fair and that every effort should be made to arrive at the true value of every piece of property whatever its kind and wherever situated, and assess the property accordingly.

There are thousands of owners of property throughout the state who are ignorant of the value of their own property. It is a benefit to them to have the assessors place a value upon their property of what it is actually worth and it works no hardship in the way of taxation, providing every other person in the town and state is taxed likewise. How often we hear of some farmer who has raised a piece of timber, who has not been on to his wood lot for years, who has been asked to make a price upon his timber or his farm, and has placed a value upon the same for one-quarter or one-half its true value and afterwards has found out his mistake, which has cost him no end of worry and disappointment, perhaps to such an extent that it has entirely discouraged him. This would not happen if his property had been properly examined and assessed at its full value by the town assessors.

During the last few years it has become customary for the assessors to employ some outside expert to assist them to come to a conclusion as to the fair valuation of certain tracts of land. Every town should appropriate a sum of money sufficient to procure the services, once in five or ten years, of an expert timber estimator, that their assessors may keep posted and familiar with the valuation of all of the pieces of timber land in their town. The tax assessors should examine the reports very carefully and familiarize themselves with the nature of the growth, location, etc., so that from year to year they may make such additions as the nature of the growth would require or permit. Some advocate making a fixed addition or percentage of growth to each lot yearly. This rule is not just, as some lots grow much faster than others. It is absolutely necessary for the assessors to become familiar with the growth in their towns in order to treat every owner justly;

the assessors should not be governed by offers made for timber any more than they should for other pieces of property. A man may have some reason why he wishes to retain his timber the same as he would why he might want to retain the house he lives in, and refuse an offer of twice what it is worth, or he might be willing to sell his piece of timber land for one-half what it is actually worth. The assessors should not be governed in any way by his views unless they are correct. I maintain that all assessors should be very lenient in the assessment of small growth and that the tax commission should stand back of this movement, and that all matured timber should be taxed at its full value, which means full cut, full price and in consideration of its quality, taking into consideration of course its location, nature of the ground on which it stands, distance from railroads, etc.

By adopting some such method, the same results can be obtained as are contemplated by a change of the constitution, with the exception of an absolute exemption for a period of years.

A different rule should be applied to hardwood growth, that is, the method would be the same, but the duration of time for nominal taxation should be extended over a far greater number of years. There is quite a question whether the owners of hardwood timber lands ever receive enough to pay the taxes, to say nothing about the interest upon the money they have invested in the land. It is a known fact that old-growth hardwood timber lands seldom ever produce over 4 M. ft. per acre, the stumpage is figured at about $2.00 per M. This would yield $8.00 per acre. It takes about 100 years to produce hardwood of size sufficient to make first class interior finish. It is very evident that the owner of this class of timber lands is losing money even if his lands are not taxed at all.

It is a question that requires a great deal of study and consideration. No two pieces of land can be treated exactly alike; it is almost entirely a question of judgment and knowledge on the part of the assessors. They should be very cautious and give the owner the benefit of all the doubts. It is not good business to so assess timber lands as to cause their premature denudation. There is a strong impression among all of the assessors that I have become acquainted with, that they must go the limit in order to satisfy the tax commission of the state. I think this is a wrong impression, judging from my knowledge of the personnel of the commission. This could be eliminated by an adoption of certain rules with explanations, that would be well within the law, forwarded to all the assessors of the state by the commission, if they should conclude after examination that this theory is workable and practicable.

THE IMPORTANCE OF UNIFICATION OF INHERITANCE TAX LAWS

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An address at the New York State Tax Conference

The income tax has recently entirely overshadowed other forms of taxes in the public mind. I don't need to go into a discussion of the reasons. The ease with which a state can superimpose a state income tax on the federal income tax is now apparent to all of us who this year mailed a yellow sheet to 120 Broadway for Mr. Travis as well as the more formidable white sheet to the Customs House for Mr. Edwards. The State income tax was fortunately started this year when the reduction in the rate of the normal federal income tax from 12 per cent to 8 per cent could be taken as a solace by the taxpayer for his new tax of three per cent, or less, to the State. But we must not close our eyes to the fact that gradually the taxpayer is going to wake up to the fact that residence, heretofore recognized as an important consideration in the retrospect of one who is supposed to be dwelling in the

kingdom of heaven, is also an important consideration in the prospect of the citizen facing the options of paying income taxes at different rates in different states or of paying an income tax if he lives in one state or of paying none if he lives in another.

Men of means have sometimes been careless about locating their domiciles, when the only difficulty involved was the payment of an inheritance tax by their heirs or estates. Indeed, a brief survey of many opinions on the question of residence shows that there has seemed to be some virtue attached to the phrase, "resident of Vermont," or of some other state, appended to the name of the testator in his last will and testament, just as though such a phrase could have very much to do with establishing the intent necessary to change a residence into a domicile.

But the income tax is going to educate men up to the necessity of seeking out the state that is easy in the matter of taxes. The need for escaping present income taxes will be more pressing, more appealing than the need for setting the house in order to clear the estate from inheritance taxes. In the single act of locating a domicile for the purpose of fixing the taxpayer's relation to the state income taxes, he unwittingly, perhaps, accomplishes the twofold purpose of dodging an income tax for himself and an inheritance tax for his estate. I deem it important, then, that in the midst of all our discussion of income taxes we shall not lose sight of the effect which the levying of income taxes may have on the revenues of the state through the incentive the income tax may give to the taxpayer to change his domicile and thus escape not only the income tax but the inheritance tax as well. Let me add that this fear of mine is not mere imagination. Only very recently it was claimed by heirs that their testator had an established residence in Massachusetts. The fact that the decedent had filed his federal income tax return in New York City was held by a New York court to be conclusive evidence of residence in New York. Inheritance taxes will follow income taxes just as certainly as trade follows the flag.

In reading the report of the Committee appointed by the National Tax Association to prepare a plan of a Model System of State and Local Taxation, I was sorry to see that the place of inheritance taxes in a uniform system had not been considered. I say I was sorry because I believe the subject of inheritance taxes is just as much in need of classification and standardization as any of the other taxes. Several years ago it was pointed out that an examination of the cases reported in one of our law digests showed that about twenty-five per cent of the total litigation concerning taxes is attributable to the inheritance tax laws. The importance of inheritance taxes is shown not only in this mass of litigation — only a small part of the cost of which, by the way, finds its way into the reports of the cost of the administration of the law—but by the fact that forty-five of our forty-eight sovereign states have adopted a tax on decedents' estates in some form and that all but ten of them tax transfers of stock of domestic corporations, though the decedent was a non-resident of the state. On account of the complexity of the problems involved in inter-state inheritance taxation as well as on account of their growing importance as sources of revenue, I am sorry that the Model System did not lay down some guiding principles.

I shall not attempt to rush in where the National Tax Association committee feared to tread. There are, however, a few aspects of this question that I should like to touch upon, stating problems rather than suggesting solutions.

In the first place, the instability of our inheritance tax laws is cause for complaint. In the single year 1919 there were statutory changes in 19 states as well as the change in the federal estate tax law. Our own law has been amended over 40 times since its enactment in 1885. The fact that business in the United States is organized largely on the corporate basis; the fact that corporations make wide appeals for capital, and the fact that good investment policy teaches the wisdom of scattering investments geographically as well as in various enterprises, all conspire to place the citizen of any state largely under the control of the laws of all the states. Not only in choosing domicile, then, must the taxpayer study the tax laws, but in choosing his investments he must give weight to the tax burdens the different available investments entail. Anyone who is familiar with bond circulars knows that

the inheritance tax law of the state of incorporation is as important a consideration as is the element of income, or of marketability or any other advertised investment feature. The taxpayer has a right to demand that he be permitted to make his investments without examining from year to year the statutes of some forty-five jurisdictions. The encouragement of thrift under present chaotic conditions must seem to many a hopeless task. I make bold to say, even in this day and trembling hour, that though a man's house has ceased to be his castle, the state cannot claim it as a laboratory in which to conduct its fiscal experiments.

In the second place, even if there were little change from year to year in the inheritance tax laws, the mere fact of divergence in rates and often in incidence, makes difficult the task of carrying on ordinary business with some regard to the future. Investors have come to the point where they ask about the liability to inheritance taxation of every investment that is offered them. One insurance company has published a digest of interstate inheritance tax laws, and one investment house has, to my knowledge, engaged the services of a specialist to prepare for its customers a pamphlet on the subject of the relation of inheritance taxes to investment, including a digest of the essential parts of the inheritance tax laws. A uniform law, whether it be a uniform law adopted voluntarily by the states or a single law adopted by the Federal Government would simplify the investors' problems.

A third difficulty that the inheritance tax problem presents is the danger of the dissipation of productive capital. Almost every insurance agent selling life insurance can give at least part of the argument on this point. If the inheritance tax bears so heavily on an estate that a large part of it must be converted into cash to pay the tax, there is danger that the income-producing entity of which the estate may consist will be disrupted, to the detriment not only of those interested in the estate directly but to society as well. For though our economic faith may run to extreme individualism or to complete socialism, we still can agree that the disruption of large-scale production is an economic loss. The insurance business has grown tremendously, and partly because life insurance is used to provide the means for paying inheritance taxes that might otherwise ruin business organizations.

This danger really may arise in one of two ways: either an estate may fall under the concurrent burden of several inheritance taxes imposed by the federal government and by several states, or it may be subject to successive inheritance taxes imposed by one or more jurisdictions at the death of several holders who die in rapid succession. The danger of this latter contingency, namely, that the same property may belong successively to, say, five holders who die, one after another, within a short time is recognized by the Federal Estate Tax, which provides in effect that the same property cannot be taxed twice within five years. To get the states to agree to such a provision is probably impossible. And even if the several states did enact such a provision, excluding from inheritance taxes property that had recently been taxed, the provision undoubtedly would be made to apply only to property that had been taxed by the same state. If therefore the ownership of property should pass in rapid succession from a resident of one state to a resident of another state, and so on, we should pretty soon find the estate practically annihilated. I say practically annihilated, for I appreciate that successive taxes, each taking only a percentage of what was left after the previous tax had been paid, could never entirely exhaust a property. But from a practical standpoint you don't have to appropriate every drop of property to exterminate entirely the value of what is left. There is a fraction of an estate beyond which you cannot go in subtracting wealth without causing the estate to fly apart like the Prince Rupert drops that are made by dropping molten glass into water. But the danger does not arise from successive levies alone. It arises from the concurrent imposition of taxes on the same property at the same time by several taxing jurisdictions. At the present time there is alwas a double burden, that of the state and that of the Federal Government. And if, for example, all of the decedents' property should have a definite physical situs in one state, and the decedent should have his residence in another state there would undoubtedly be triple taxation—taxation that might approximate 50 per cent of the prin-

cipal of the estate. Indeed, an estate may pay inheritance taxes on the same wealth in five jurisdictions, i. e., four states and the federal government.

A still further difficulty in our interstate system of inheritance taxes has already been hinted at, the expense, as well as the delay in settling estates. The judge-made law of interstate inheritance taxation is growing apace with the statute law. This judge-made law I am afraid is clouding the general principles with countless single instances that serve the purpose of pointing the way to evasion as well as the purpose of clarifying the law. I have had some training in the law and have accustomed myself to rather close reasoning, but I must confess that the opinions of the United States Supreme Court alone are becoming bewildering. For example, I have not yet been able to reconcile the two following pronouncements made by that Court, one on October 27 last in upholding the "ratio formula" contained in the New Jersey inheritance tax law, and the other holding unconstitutional the lack of a non-resident exemption clause in our own income tax. In the one case the Court said: "The alleged discrimination . . . so far as privileges and immunities are concerned, is not strictly applicable to this statute because the difference in the method of taxation rests upon residence and not upon citizenship." (*Maxwell* vs. *Bugbee,* 250 U. S. 525.) In the New York case the same court within five months said: "A general taxing scheme [what else is the New Jersey inheritance tax] if it discriminates against all non-residents, [and that is what the New Jersey law does] has the necessary effect of including in the discrimination those who are citizens of other states; and, if there be no reasonable ground for the diversity of treatment, it abridges the privileges and immunities to which citizens are entitled." (*Travis* v. *Yale & Towne Mfg. Co.,* not yet reported.)

The fact is that the attempt to draw distinctions between state lines and between state and federal lines is placing a well-nigh intolerable burden on the Supreme Court, a burden which is requiring a preciseness of reasoning, and sometimes the erection of a hair-splitting rule, that is altogether revolting to the man who insists upon standing out in the clear light of common sense and upon judging of rights and obligations, as between citizens and the state, as well as between citizen and citizen and between state and state, on the simple basis of what is given and what is received.

It may seem sensible to the lawyer to make distinctions as Professor Powell does in his series of articles on Extra-Territorial Inheritance Taxation just beginning in the *Columbia Law Review,* as to the nature of a tax in one place and in another place, calling it in one jurisdiction a tax on the privilege of doing business and in another a tax on property, but to the matter-of-fact person, such distinctions are but sops which logic throws to the overstrained judicial conscience. Blackstone tells us that the Roman tyrant Caligula posted his new laws at the top of the columns supporting the roof of one of the temples. When his enemies, wholly ignorant of the law, were brought to court, their complaint that they did not know of the law was answered by the retort, the laws are posted on the temple. Now, I claim that the difference between putting a law at the top of a column and burying it beneath a perfect landslide of judge-made theories or hiding it within a wilderness of what to the matter-of-fact seems contradictory interpretations, I say the difference between the cunning of the tyrant and the ponderousness of our forty-five-fold system of legislative and judicial experiment is so slight as to justify the matter-of-fact man in choosing the physical labor of "shinning" up a temple column to the utterly exhausting labor of digging out the meaning of our modern inheritance tax law.

In view of all these difficulties and problems I am convinced in my own mind that the solution lies, as Professor Seligman of Columbia has pointed out recently, in a single levy on the estates of decedents by the Federal Government with an apportionment of the proceeds among the states. I am not prepared to state exactly how that apportionment should take place. But certain principles might be laid down to guide in the preparation of an exact plan.

1. The States should participate in proportion to the assistance they have rendered the decedent in the protection of his property.

2. Some attention should be given to the

needs of the states, and this probably can best be gauged on the basis of population.

3. The federal government should be regarded not as the patron of the states, disbursing alms, but as their servant charged with the duty of sustaining them.

DECISIONS AND RULINGS

EDITED BY A. E. HOLCOMB

Late Supreme Court Decisions.—An interesting opinion rendered June 1st, 1920, which we are able only to briefly refer to, is that of the United States Supreme Court in reversing the District Court in the case of *Evans* v. *Gore* (260 Fed. 550) and holding that the inclusion as taxable income under the federal law of the salary of a federal judge is unconstitutional. The opinion is lengthy and, among other things, reiterates the view expressed in other cases that the words "from whatever source derived" in the 16th amendment are not to be held to increase the taxing power of Congress other than by removing the necessity of apportionment in taxing incomes.

Another important opinion rendered on the same day is that in the case of *Cream of Wheat Co.* v. *County of Grand Forks,* reported in 170 N. W. 863 and digested in Bulletin, Vol. IV, page 246. By this opinion the state court is affirmed in holding that the taxation of a domestic corporation upon its capital stock even though it has no property in the state and does no business therein is not an unconstitutional exercise of the taxing power.

Excise Tax—Foreign Corporations—Interstate Commerce — Unit Rule of Assessment.—It is well settled that taxes on property or on franchises treated as property must refrain from assessing extraterritorial values. When interstate properties are valued as a unit and some fraction is then taken as the part located within the jurisdiction, the Supreme Court insists that the assessment must apply a proper ratio to a proper base. Property outside the state which cannot contribute to the value of what is within the state must be excluded from the base. *Fargo* v. *Hart,* 193 U. S. 490; *Meyer* v. *Wells Fargo &* Co., 223 U. S. 298.

Undoubtedly more latitude is allowed in assessing excise taxes than in assessing property taxes. The excise may be a specific tax of a uniform amount or varying according to the population of the area in which business is done. Excises measured by property within the state or by that part of the total capital stock which represents the property within the state are sustained. *St. Louis, S. W. Ry. Co.* v. *Arkansas,* 235 U. S. 350; *Lusk* v. *Botkin,* 240 U. S. 236. But excises which cannot by reason of a maximum limit be brought within the class of specific taxes and which are measured by total capital stock representing property without the state are as vicious as similar taxes on property or on franchises treated as property. The vice of such statutes has been that they have sought to accomplish through the levy of an excise tax the assessment of extra-territorial values. This was formerly thought proper when the subject of the tax was the privilege of a foreign corporation to engage in local business within the state. But in the *Western Union Case* and those succeeding it, the measure of an excise tax was held invalid when it inevitably in all cases took account of extra-territorial values.

In some of the cases annulling excise taxes measured by total capital stock, the opinions have called the tax one in effect on property beyond the jurisdiction. This has led some to assume that it might still be possible for a "true excise tax" to escape from the shackles of the *Western Union Case.* It is more likely, however, that the Supreme Court was trying not to draw distinctions between true excise taxes and fake excise taxes that were really property taxes, but merely to indicate that an excise when unequivocally measured by property may have the same vice of extraterritoriality as a formal property tax. Any doubt on this matter is now set at rest by a unanimous decision enjoining the attempted assessment of North Dakota's special excise tax on foreign corporations.

As the injunction involved was only a preliminary one, the court did not enter into nice calculations as to the precise extent of North Dakota's unwarranted greediness. Mr. Justice Holmes gives us the facts and the law in characteristically compact and lucid fashion. After saying that the tax law "purports to be a special excise upon doing business in the State," he continues:

"As the law is administered, the tax commissioner fixes the value of the total property of each railroad by the total value of its stocks and bonds and assesses the proportion of this value that the main track mileage in North Dakota bears to the main track of the whole line. But on the allegations of the bill, which is all that we have before us, the circumstances are such as to make that mode of assessment indefensible. North Dakota is a State of plains, very different from the other States, and the cost of the roads there was much less than it was in mountainous regions that the roads had to traverse. The State is mainly agricultural. Its markets are outside its boundaries and most of the distributing centers from which it purchases also are outside. It naturally follows that the great and very valuable terminals of the roads are in other States. So, looking only to the physical track, the injustice of assuming the value to be evenly distributed according to main-track mileage is plain. But that is not all.

"The only reason for allowing a State to look beyond its borders when it taxes the property of foreign corporations is that it may get the true value of the things within it, when they are part of an organic system of wide extent, that gives them a value above what they otherwise would possess. The purpose is not to expose the heel of the system to a mortal dart—not, in other words, to open to taxation what is not within the State. Therefore no property of such an interstate road situated elsewhere can be taken into account unless it can be seen in some plain and fairly intelligible way that it adds to the value of the road and the rights exercised within the State. Hence the possession of bonds secured by mortgage of lands in other States, or of a land-grant in another State or of other property that adds to the riches of the corporation but does not affect the North Dakota part of the road is no sufficient ground for the increase of the tax—whatever it may be — whether a tax on property, or, as here, an excise upon doing business within the State. *St. Louis Southwestern Ry. Co.* v. *Arkansas,* 235 U. S. 350, 364. In this case, it is alleged, the tax commissioner's valuation included items of the kind described to very large amounts. The foregoing considerations justify the preliminary injunction that was granted against what would appear to be an unwarranted interference with interstate commerce and a taking of property without due process of law." — *Wallace et al.* v. *Hines,* U. S. Sup. Ct., May 3, 1920.

TAX COMMISSION — POWERS — EQUALIZATION—INJUNCTIVE RELIEF. — The test of the legality of the strenuous efforts of the Indiana State Board of Tax Commissioners to revolutionize the system of assessment (or underassessment) in that state which were undertaken as a part of the program pursuant to which the 1919 legislative changes were made has recently reached its initial stage through a decision of the appellate court.

The Board ordered wholesale increases of classes of property throughout the state at percentages differing in the different counties and townships. This action was attacked through a suit to enjoin the county officers of one county from complying with the orders. The circuit court granted the injunction, holding the action illegal. The contentions were that the Board had no power to equalize as between townships within a county or as between different classes of real or personal property; that it must equalize as between counties only and in so doing must act upon the certain specified classes and upon the aggregate of such classes.

The appellate court deemed it unnecessary to decide upon the power of the Board to act as it did, though observing that it was not prepared to hold that such power was wanting. It contented itself with a careful discussion of the province of a court of equity in a case where, as here, the issuance of the injunction prayed for would cause widespread confusion and hardship to the entire state. Copious citation is made from the opinions in cases from other jurisdictions, all tending to indicate the rule that where a remedy at laws exists, litigants will be held confined to such relief, where the effect of injunc-

tive relief would break down the revenue system of the state for the year and cause irreparable injury and confusion and more harm would be done than would be prevented. The judgment was reversed and the cause remanded, the litigants being thus left to their legal remedy.—*Fesler* v. *Bosson,* 126 N. E. 20.

Review of Assessments — Conlusiveness of Official Action. — On an appraisement of real property for the assessment of inheritance tax the state appealed to the circuit court from the action of the Probate Court, claiming undervaluation. The appeal was dismissed and such dismissal was upheld by the supreme court of Arkansas, it appearing that there was no statutory authority for such appeal, such as was held necessary to authorize a review of the action of duly constituted officials.—*State* v. *Bowlin's Estate,* 217 S. W. 464.

Assessments—Sufficiency of Notice of Increase—Appearance as Waiver of Notice.—In a Montana case the taxpayer who had been notified by the assessor of an increase and who entered an objection because the notice given was inadequate, being less than that required by law, was held by his appearance and objection to have waived the irregularity. — *Anaconda Copper Min. Co.* v. *Ravalli County,* 186 Pac. 332.

Fraudulent Assessment—Arbitrary Basis.—Where it was shown that the assessments complained of were from four to seven times assessments made upon adjoining properties and that the assessor had adopted a minimum value per acre for all such properties and particularly where in a condemnation proceeding to acquire the property in question the award was one-fourth the assessed value, the assessments must be held invalid as being fraudulently made.—*Titlow* v. *Pierce County,* 185 Pac. 575.

Insurance Companies—Deduction of Reserves. — A statute of Georgia providing that the amount of the reserve fund required by law to be held by insurance companies for policyholders should be deducted, with other items, from the assets, in obtaining the taxable value of the personal property of such companies was held not in violation of any constitutional provision, no such provision being specified in the demurrer.—*City of Atlanta* v. *Standard Life Ins. Co.,* 101 S. E. 122.

Equality and Uniformity—Railroad Bridge. — In a proceeding to review the assessment of a railroad bridge, the Iowa supreme court affirmed earlier decisions, holding that if the record disclosed that all other real property in the city was, in fact, assessed at 60 per cent of its actual value and the bridge at full value, such assessment could not be sustained.—*Union Pac. R. Co.* v. *City of Council Bluffs,* 175 N. W. 7.

Capital Stock—Classification. — A Pennsylvania statute provided a tax upon companies " organized and incorporated for the purpose of distilling liquors and selling the same at wholesale ". A corporation of that character was held taxable thereunder, although it did no distilling in the state, the court holding that it came within the class although all its distilling was done without the state.—*Commonwealth* v. *Hannis Distilling Company,* 108 Atl. 822; see also *Commonwealth* v. *John McGlinn Distilling Co.,* 108 Atl. 823.

Assessments—Notice of Increase.—Where a taxpayer had actual notice of an increase in his assessment and opportunity to take steps to contest same, the tax upon such increased assessment was not invalid because of failure of the authorities to give notice in the particular manner provided by the statute. — *Oates* v. *Fountain,* 101 S. E. 830.

Assessments — Listing — Notice of Increase. — An agent of land owners appeared before the assessor and an assessment was arrived at which was entered upon the roll. Thereafter, by direction of the State Board of Affairs, an increase was made without notice to the owner or his agent. Upon appeal, the court held that the testimony of the assessor that he stated to the agent that the assessment was tentative and that if the State Board should thereafter order an increase, he would make it, did not disentitle the agent to the notice of increase provided by the statute. —*Forest Lumber Co.* v. *Word,* 83 So. 551.

CLASSIFICATION—EXEMPTIONS. — In a recent case the Minnesota court held that while the legislature had a wide discretion in classifying property for tax purposes, the classification must be based upon reasonable grounds of distinction; that all similarly situated must be treated alike; that a law imposing taxes on premiums of insurance companies, based upon arbitrary facts with respect to different companies and exempting domestic mutual fire insurance companies, violated the constitutional requirement of uniformity as between the same classes of subjects.—*State* v. *Minnesota Farmers' Mut. Ins. Co.,* 176 N. W. 756.

TAX ASSESSED AS PENALTY — INTOXICATING LIQUORS. — A statute of Nebraska provided that where an injunction issued for violation of the liquor laws constituting a nuisance, a tax of $300 should be assessed against the premises in question, to be collected like other taxes and constitute a lien. This statute was held unconstitutional because, if a tax, it was not assessed pursuant to the uniformity provision of the constitution as to the collection of revenues. — *State* v. *Macfarland,* 175 N. W. 663.

CAPITAL STOCK, MEASURE OF VALUATION OF — PRESUMPTION OF VALIDITY OF ACTION OF ASSESSING OFFICERS. — In a back tax proceeding for the taxation of the capital stock of a corporation, it appeared that the entire assets consisted of real and personal property which had been regularly assessed. The corporation claimed that this being so and as no evidence was introduced to show any value for the capital stock in excess of the value of the property, the action of the lower court in canceling the assessment complained of was correct. The supreme court held that the validity of acts of assessing officers was presumptively correct and that the burden was upon the complaining corporation to show its incorrectness; that the value of the capital stock was not necessarily measured by the assets but that it had a value in excess thereof, indicated by evidence of earnings, payment of income tax and general improvement in its financial condition. The tax was therefore sustained.—*Robertson* v. *U. S. Nursery Co.,* 83 So. 307.

FRANCHISES—STREET RAILWAY—RAILWAY ON BRIDGE. — A street railway operated its cars over a bridge upon a division of fares with the lessor of the bridge. It contested an assessment which included a large sum designated as "all other" property, urging that the action constituted a double assessment, was unequal as compared with other assessments of similar properties, was invalid as it was not exercising a franchise other than that of being a corporation. The court, upon full discussion of the contentions rejected all, holding the assessment valid.—*State* v. *St. Louis & E. St. Louis Elec. Ry. Co.,* 216 S. W. 763.

MINE TAXATION—BASIS OF VALUATION —ERRORS OF JUDGMENT. — The Michigan supreme court recently reviewed assessments fixed upon certain mining properties which had been largely increased, such assessments having been claimed to be made arbitrarily and fraudulently, thus affording ground for the recovery of taxes paid under protest. The court quoted at length from the opinion of the trial judge and affirmed the assessments upon his opinion. It appeared that the assessments had been fixed largely upon a consideration of the market value of the stocks of the companies, which method was held appropriate and quite as satisfactory as other methods, if not more so.

The judgment was, however, affirmed upon the view of the court that the assessments had not been shown to have been made arbitrarily or fraudulently or by the adoption of a fundamentally wrong principle, such proof being held necessary to justify a court in overturning assessments, that rule having been established by the decision in *Newport Mining Co.* v. *City of Ironwood,* 152 N. W. 1088, which had been followed in numerous decisions.—*Copper Range Co.* v. *Adams Township,* 175 N. W. 282.

VALUATION METHODS — RELIEF FROM ASSESSMENT BY FUNDAMENTALLY INCORRECT METHOD — NATURAL GAS PLANT.— The Arkansas Tax Commission assessed a natural gas plant largely in excess of the value returned. Upon appeal, the court held that while the general rule was that no relief could be granted from an exercise of the judgment of the assessors in the

absence of statutory authority therefor, that rule did not hold where it could be shown that a fundamentally incorrect method was used. In this case the commission had arrived at its assessment by capitalizing the net operating revenues, for which the court held no authority in law existed; that in such a plant such a method resulted in capitalizing capital values as the revenues derived represented exhaustion of capital; that property was assessable whether or not it produced income and that it was not taxed according to its income.—*Martineau* v. *Clear Creek Oil & Gas Co.*, 217 S. W. 807.

Inheritance Tax — Suit by a State of Residence to Collect Tax in Foreign State—Jurisdiction. — The interesting litigation in the courts of New York by the state of Colorado to collect an inheritance tax from the estate of a resident of that state, has reached the appellate court, which reversed the decision of the lower court (175 N. Y. Supp. 685; *Bul.* V, 29).

The court held that the objection that personal service was necessary to give jurisdiction, was not valid in this case because the defendants had taken advantage in probating the will in New York of the claim of Colorado residence of the testator and they could not be heard to complain of the proceedings to enforce the obligation of the statutes of that state.

The right of the state of Colorado to maintain the suit was upheld as authorized by the Colorado statutes, and it was held that it should not be denied the right of access to the courts of New York, on grounds of interstate comity, no objection from the standpoint of public policy being seen. The cases where New York courts had refused to enforce stockholders' liability under foreign laws (*Howarth* v. *Angle,* 56 N. E. 489) were referred to as resting upon contractual relations; here the defendants, by their own acts, had assumed the statutory obligations and made them contractual. The judgment of the lower court dismissing the complaint was reversed and judgment directed for plaintiff.—*State of Colorado* v. *Harbeck,* 179 N. Y. Supp. 510.

Inheritance Tax—Principles Established — Nature of — Constitutionality.—In three cases decided together, the Virginia court of appeals considered numerous objections raised against the inheritance tax law of that state enacted in 1916 (Acts 1916, p. 812). The opinions are useful in bringing together the authorities upon the various points discussed and which have heretofore been raised and settled in other jurisdictions. Much was made of the objection of lack of due process in the assessment because of claimed inadequate notice and opportunity to contest the validity of the tax or its amount. The fundamental nature of an inheritance tax, as not a property tax but a tax in the nature of a privilege is pointed out. The remedy by injunction was held available to the taxpayer, as there was no other remedy as in the case of a property tax. The act was interpreted as imposing a tax on the distributive shares rather than upon the estate.

In one of the cases it was held that the tax was to be governed by the act in force at the time of decedent's death though not assessed until after the act had been amended. Another holding was that the court would correct injustice if found, and hence that any irregularity in the original assessment was of minor consequence. It was further held that the expenses of administration and debts should be deducted from the gross estate, the exemptions allowed to each beneficiary being deducted from the balance before computing the tax upon each.—*Commonwealth* v. *Carter; Heth* v. *Commonwealth,* and *Withers* v. *Jones' Ex'x,* 102 S. E. 58, 66, 68.

Inheritance Taxes — Refund upon Happening of Contingency. — A will provided for distribution in accordance with certain contingencies. Under the statute the tax was assessed in accordance with the contingency that imposed the highest rates. Thereafter a contingency happened relieving from the necessity originally in force, which required the application of the rates imposed. Thereupon petition was filed to modify the order and assess the tax in accordance with the actual situation at the time, under a statute claimed to apply but which was contested by the state comptroller. The court upheld the action of the Surrogate in allowing the modification which required the repayment of the excessive tax.—*In re Redmond's Estate,* 179 N. Y. Supp. 307.

Inheritance Tax — Deduction of Debts. — The Surrogates Court of New York County has held that where a resident decedent left tangible property located outside the state, and hence not subject to inheritance tax, his debts should be deducted prorata from all his property, whether taxable or non-taxable, and that in the instant case a prorata proportion of such debts should be held applicable to the property outside; the assets in the state and taxable, may not be diminished by the entire indebtedness. The point was said not to have been heretofore decided.—*In re Boldt's Estate,* 180 N. Y. Supp. 636.

Inheritance Tax — Deduction of Federal Estate Tax.—The Indiana appellate court has held that the federal estate tax is a proper deduction in determining the state inheritance tax, citing and following the rule in Illinois, Minnesota, New Jersey and New York.—*State* v. *First Calumet Trust & Sav. Bk.,* 125 N. E. 200.

Licenses — Revenue or Regulatory Measure—Test is the Legal Effect.— An ordinance imposing fees upon auctioneers based upon a percentage of the sales, was held to be in fact and in legal effect a revenue measure and not one imposed for regulatory purposes, as upon examination the payments were so large and so wholly out of proportion to the needs of regulation as to demonstrate a purpose to impose a tax for revenue in the guise of regulation. The purpose was unauthorized by the charter power to regulate sales at auction.

The requirement to keep account of sales and report the same was held only incidental to the collection of the charge and hence to fall with it. — *City of New London* v. *Howe,* 108 Atl. 529.

Licenses — Reasonableness. — The terms of a license ordinance on pool rooms were considered by the Georgia supreme court and held not unreasonable, except one providing that the conducting of such a business was to be restricted to a certain designated and limited street location, but this was held not such a vital part of the ordinance and so interwoven in the whole scheme as to render the ordinance void.—*Purvis* v. *City of Ocilla,* 102 S. E. 241.

Licenses—"Emigrant Agent"—Corporation Employee. — An Act of South Carolina required a license from persons engaged in the business of emigrant agents, who were defined to be those hiring persons in the state to be employed outside the state. An employee of a railroad, while under federal operation, was instructed to secure laborers for the railroad to do work in North Carolina. The defense to a conviction for violation was that such an employee was not an "emigrant agent" and that the statute did not apply to an employee of a railroad under federal control. Both defenses were overruled and the conviction was affirmed.—*State* v. *Bates,* 101 S. E. 651.

Licenses—Classification—"Tax".— An ordinance adopted by a city, pursuant to an Arkansas statute imposing a tax upon various occupations, was attacked upon numerous grounds. It was held a tax and not a regulatory fee, and hence not limited to the cost of regulation. Classification based upon the amount of goods was held proper, with reference to the full discussion in *City of Newton* v. *Atchison,* 1 Pac. 288. The classification among lawyers based upon length of practice, was held invalid as being in reality based upon income which was specifically prohibited by the act. This, however, was held not to invalidate the tax, which the court held could be imposed at the lowest rate upon all lawyers.—*Davis* v. *City of Hot Springs,* 217 S. W. 769.

Licenses—Classification of Cities— Population. — By an act of the North Carolina legislature the license tax upon moving picture shows was graded in proportion to the population but the act contained no direction as to how the population was to be determined. In a recent case it appeared that the superintendents of schools of the city had made an enumeration of the population from which it was shown that the city in question had a population in excess of that shown in the last federal census. A license tax was sought to be imposed upon the basis of that enumeration upon the theory that population could be judicially determined like any other fact. This contention was denied, it being held that the basis of the classification must be such as shown by a census

conducted under authority of law with the necessary means of officially enforcing the same; a private enumeration could not be accepted. — *State* v. *Prevo,* 101 S. E. 370.

Licenses — Display of Automobile License. — The Texas court of criminal appeals has held that upon a proceeding to assess a fine for failure to display the official seal on an automobile, it was a proper defense that the owner had paid taxes and secured signs for 16 automobiles and had given directions to his employees to affix the same, which had been done except in the case of one automobile, the failure in that case being due to negligence of the employees.—*Axtell* v. *State,* 216 S. W. 394.

Licenses—Loan Brokers.—Upon petition for rehearing, the Texas court of criminal appeals reversed its original decision and held that while the business of the loan broker as defined in the Act in question and which was sought to be regulated, was properly subject to such regulation and was not a private business not subject to license, yet the drastic requirements as to the giving of bond and the obligations of the sureties thereon were of such a nature as to deny the citizen equal protection of the law and rights guaranteed him by the constitution. — *Juhan* v. *State,* 216 S. W. 873.

Licenses — Mercantile Tax—"Vender".—A corporation engaged in refining oil and manufacturing certain products thereof, maintained several relay or distributing stations at which it sold its own products and also those of others, and also from which deliveries were made of goods sold from its central sales force. It contested the legality of computing the tax, in the case of the stations, by including the deliveries of sales made through its central force, the tax being based upon the gross volume of business done. The court, upon full consideration, upheld the taxes as assessed and refused to enjoin the collection thereof. — *Atlantic Refining Co.* v. *Van Valkenburg,* 109 Atl. 208.

Licenses — Automobile Dealers — Classification. — A Georgia statute imposing taxes upon automobile dealers at rates graduated with respect to the population of the county and containing other provisions claimed to be arbitrary, was held not invalid as discriminatory or unreasonable.—*Adams Motor Co.* v. *Cler,* 102 S. E. 440.

Licenses — Surety Company as Insurance Company.—After paying the tax on insurance premiums imposed by a Kentucky statute, for many years without objection, a surety company decided that it was not liable and sought to recover sums previously paid. This contention was based upon the claim that a surety company was not an insurance company and hence not liable, because the tax was imposed upon the latter companies. The court, upon full discussion and citation of authority, rejected the claim, holding the surety company to be essentially an insurance company.—*Greene* v. *National Surety Co.,* 217 S. W. 117.

Licenses — Interstate Commerce—Telegraph Company.—A telegraph company contested the validity of a license tax by testimony of subordinate officers, not directly in charge of the matters which the testimony referred to, claimed to show that the tax complained of was a burden upon interstate commerce. The court held that as the character of the testimony was identical with that held in *Postal Tel. Co.* v. *Richmond,* 249 U. S., inadequate to show clear interference, that case was conclusive and upheld the conviction and fine imposed by the lower court for conducting business without payment of the license.—*Postal Telegraph-Cable Co.* v. *City of Charlottesville,* 101 S. E. 357.

Federal Corporation Excise Tax—Limitation on Interest Deduction—"Paid Up" Capital Stock.—The limitation imposed upon interest deductions by the Corporation Excise Tax Act of 1909 to an amount of indebtedness not exceeding the "paid-up capital stock" means the par value of the paid-up capital stock. Therefore premiums on stock sold above par may not be included in computing the amount of paid-up capital stock for the purpose of the Act. The definition of "paid-up capital stock" contained in a local state statute is not binding upon a federal court when interpreting a federal taxing statute. — *Boston and Maine Railroad* v. *U. S.,* U. S. C. C. A., First Circuit, March 19, 1920.

CORPORATION EXCISE TAX — STREET RAILWAY IN HANDS OF RECEIVER. — The Massachusetts supreme court has held that a street railway is liable for an excise tax upon the privilege of operation in the public streets, measured by gross receipts from such operation, for the entire period of the tax year, without regard to the fact of the appointment of a receiver during such year. The franchises of such a corporation are exercised for the benefit of creditors and excise taxes based on such exercise are properly due and payable by the receiver who is custodian of the property and in charge of its operation.—*Harvey* v. *Bay State St. Ry. Co.,* 125 N. E. 614.

CORPORATION EXCISE TAX OF 1909— DEPRECIATION — INCOME OF INSURANCE COMPANY—RECOVERY OF INTEREST. — In reversing the District Court (257 Fed. 576; 262 Fed. 215), the Circuit Court of Appeals held that in computing the net income of a life-insurance company a deduction should be allowed as "depreciation" for loss in value of securities owned which had been suffered during the year.

In a suit against a collector to recover a tax, the defendant may give evidence of offset due by reason of other circumstances arising in the examination of the legality of the tax complained of.

Dividends due policyholders pursuant to requirements of state statutes, representing excess premiums, are not to be included as income of the company.

Interest is recoverable in a suit against a collector to collect excess tax assessed.—*N. Y. Life Ins. Co.* v. *Anderson,* 263 Fed. 527.

STATE INCOME TAX—INCOMES AS PROPERTY.—The decision of the Supreme Court of Alabama on the appeal from the District Court whose opinion we noted in the last issue, completely sustains the lower court and strikes down the entire act. Three opinions were rendered, the majority rejecting the act in its entirety while two justices hold it partially valid, one to the extent that the tax exceeds the limit provided in the Constitution upon that income which has not been disposed of at the end of the taxable year and the Chief Justice to the extent that the tax upon the entire income exceeds the constitutional limit. All justices agree that income is property, and thus that the tax is subject to the limitation.

The majority opinion is exhaustive in its discussion of the two questions (1) whether income is property and (2) whether being property, it is within that term as used in the constitutional provision limiting the rate to 65/100 of 1% "on the value of the taxable property within the state."

Starting with a quotation from Holmes, p. 223, defining income, it proceeds with citations from numerous cases, concluding that it is "so clear as not to be debatable" that "income includes property and nothing but property, and therefore is itself property," referring the doubtful to *Ludlow Co.* v. *Woolbrinck* (Mo.), 205 S. W. 196, 202, and *State* v. *Pinder* (Del.), 108 Atl. 43.

The court is equally positive that the term "property" as used in the constitutional provision, includes incomes by a review of its numerous prior decisions, laying particular emphasis upon *W. U. Tel. Co.* v. *Board of Revenue,* 80 Ala. 378, arriving at the settled conviction that the aim of the constitution-makers was to protect *property,* not some property, but all property, whether held at moments of time or at the end of a period of time. The Missouri case of *Glasgow* v. *Rouse* and the Georgia case of *Waring* v. *Savannah* are referred to as faulty in reasoning and as "condemned by modern judicial thought." The dissenting opinion of Judge Farris in the *Woolbrinck* case is mentioned as "an unanswerable indictment of the theory that income is not property within the meaning of constitutional safeguards."

The court further holds that even considered as property, incomes could not be taxed in the ordinary manner under the property tax; that express provision must be made for the assessment of incomes.

Neither does the majority feel that they can support the contention of the Chief Justice that the act is ineffective only to the extent that the rate exceeds the constitutional limit, because to so hold would be an unwarranted assumption of judicial legislation involving the court in "quagmires of difficulty."—*Eliasberg Bros. Mercantile Co.* v. *Grimes,* Ala. Supreme Court, April 24, 1920.

INCOME TAX, STATE — INCOME FROM SERVICES — INCOME WHEN RECEIVED—PARTNERSHIP. — A partnership taxable under the Wisconsin income tax law claimed the exemption, as capital, of that portion of a sum received for legal services in 1916, which it claimed was earned prior to Jan. 1, 1911, the effective date of the law, and also expenses incurred before that date. The Board of Income Tax Review rejected this claim, and also held that not all the amounts distributed to the partners was for services in 1916 and deductible in assessing the partnership. The court held, referring to its prior discussion in *Bundy* v. *Nygaard,* 158 N. W. 87, that income included all of the sum received in 1916, regardless of when the services were rendered; that. on the other hand, the entire sum distributed to the partners in 1916 was properly deductible in assessing the partnership.—*State* v. *Phelps,* 176 N. W. 217.

INCOME TAX—" GIFTS ". — A note not delivered to the payee in the lifetime of the maker was not effective as a gift.—*Isett* v. *Maclay,* 108 Atl. 610.

INCOME TAX, STATE. — The Wisconsin act, ch. 667, Laws 1919, providing for soldiers' Bonus was attacked on numerous grounds, all of which were rejected and the act held valid by the supreme court in a lengthy opinion. The objections to the taxing scheme embodied in the act were that the surtax provisions constituted special discriminatory legislation in violation of the uniformity clause of the constitution; that there was no basis for the classification; that the various provisions as to exemptions were unequal, and that there was lack of uniformity between railroads and others. Objection was also made that the tax was not for a " public purpose " and involved an unconstitutional delegation of legislative power.

The various objections to the provisions involving changes in the income tax law were substantially all held settled by the decision in the *Income Tax Cases,* 134 N. W. 690, or by the ruling that the uniformity clause of the constitution did not apply to the income tax which had been held not a property tax. The provision for the bonus was held a tax for a public purpose. —*State* v. *Johnson,* 175 N. W. 589.

DOMICILE — RESIDENCE. — In a recent case the Virginia supreme court had before it the determination of the liability of a person to income tax and tax on intangible property as a resident of the state. The person in question had acquired property in Virginia and had devoted much time and attention to its care and development but claimed residence in Washington, D. C.

The opinion of the lower court, describing in detail acts which it held to indicate an intention to make Virginia the residence and discussing the legal effect of such acts, was adopted and the assessments complained of held valid.—*Bowen* v. *Commonwealth,* 101 S. E. 232.

INCOME TAX, STATE — " RECEIPT "—NON-RESIDENT.—A Wisconsin Trust Company acting as trustee for a Pennsylvania beneficiary, permitted a Pennsylvania corporation to pay dividends in Pennsylvania directly to the beneficiary there. It entered the dividends upon its books as though received and debited the beneficiary with the payments. The Wisconsin court held that testator intended the trust to be administered in Wisconsin and that the transaction above described constituted in law a payment of income to the Wisconsin trustee and that such income was " received " by it and properly subject to the Wisconsin income tax.

In a dissenting opinion strong objection is made to the prevailing view and it is pointed out that it overlooks the distinction between a tax on personal property and a tax on the recipient of an income therefrom and the doctrine that the taxing power of a state is not extra-territorial. Notes in L. R. A., 1915 C, 949, and *In re Countess de Noailles Estate,* 84 Atl. 665, are referred to as discussing the distinctions between property and income taxes.—*State* v. *Phelps,* 176 N. W. 863.

BRITISH INCOME TAX — PURCHASE AGREEMENTS—INTEREST.—The Hudson's Bay Company owns large tracts of land in Canada and from time to time sells plots or blocks of land to purchasers desiring to take up and occupy land for settlement in that country. The company enters into agreements with purchasers unable to provide the whole purchase money in one sum,

under which the purchaser pays a certain sum down when the contract is signed and the balance by equal annual instalments, each with interest calculated on the balance of the purchase money remaining unpaid. The company agrees on completion of payment of the purchase money and interest to convey the land to the purchaser and meanwhile permits the purchaser to occupy the land until default made in payment of the sums of money agreed upon, in which case it reserves the right to cancel and determine the agreements and to re-enter upon or to resell the lands, all payments theretofore made on account being forfeited to the company.

Held, that the interest on unpaid purchase money was income and not capital; that it was interest and not rent; and that as the interest was secured by covenant upon a debt which was itself covenanted to be paid, the interest was "income arising from securities" within the meaning of Section 5 of the Finance Act, 1914, and Case IV of Schedule D. — *Thew* v. *Hudson's Bay Company,* Gt. Brit. Tax Cases, Vol. VII, pt. III, p. 206, July, 1919.

British Income Tax — Resident in United Kingdom, Employed Out of United Kingdom. — The Appellant was employed as agent by a company trading in Nigeria. In the year of assessment he was serving under a separate agreement with the company in respect of each journey to that country, and it was a condition of his earning salary or commission that he should remain in Nigeria during the period of his agreement. On his return to the United Kingdom, he ceased to be in the service of the company or to receive remuneration from them. During the year of assessment he was rated owner of a residence in the United Kingdom where his wife and family resided, and he was personally present there during four months of the year. Sums were paid by his direction out of his remuneration to his wife during his absence abroad and the balance of his earnings, less some sums expended by him abroad, were received by him in the United Kingdom.

Held, that the Appellant was resident in the United Kingdom during the year of assessment and was correctly charged with Income Tax on his remuneration so far as received by his wife or himself in the United Kingdom. — *Thomson* v. *Bensted,* Gt. Brit. Tax Cases, Vol. VII, pt. III, p. 137, Oct. 1918.

British Income Tax — Detective— Cash Allowance for Clothing.—A detective-sergeant in the employment of the Corporation of Glasgow was assessed in a sum of approximately $945, which included $57 paid to him in cash as allowance for clothing. Detective officers, for the purpose of their work, wear plain clothes, and in order to avoid uniformity each officer receives an allowance in cash and out of this allowance supplies his own requirements. The allowance is fixed by reference to the corresponding free issue of clothing made to uniformed members of the force. The clothing which the officer must purchase is specified and is subject to the approval of a superior officer. The allowance for clothing is not regarded as income for superannuation purposes and, apart from this allowance, detective officers receive the same rates of pay as uniformed officers.

Held, that the allowance was a payment accruing to the respondent by reason of his office and was assessable for income tax. — *Fergusson* v. *Noble,* Gt. Brit. Tax Cases, Vol. VII, pt. III, p. 176, June 1919.

British Income Tax — Deduction— Expenses Incurred in Reduction of Capital of Limited Company.—A company which had made losses in trading, carried forward a debit balance from year to year in its balance sheet. The existence of this debit balance stood in the way of the payment of dividends when the company entered on a period of profit-earning. To enable dividends to be paid, the company applied to the court to have its capital reduced, and in so doing incurred legal and other expenses. The appellant company claimed to deduct these expenses in computing the balance of profits and gains for the purposes of assessment of income tax.

Held, that the expenditure in question was not expenditure for the purpose of the trade of the company, but for the purposes of distributing the profits of its trade, and was not a proper deduction in computing the profits for the purposes of assessment.— *Archibald Thomson, Black and Co., Ltd.* v. *Batty,* Gt. Brit. Tax Cases, Vol. VII, pt. III, p. 158, Jan. 1919.

Public Purpose.—The Nevada supreme court held that in determining whether a tax is levied in furtherance of a public purpose, not only the purposes of the legislation directing the imposition of the tax are to be considered but the practical effectiveness of the means provided for accomplishing those purposes. Hence where bonds were authorized to provide a fund to aid in the development of a land reclamation project but it appeared that there was no assurance that the project could be developed as intended and that under the plan the moneys could readily be devoted to the private purposes of individuals, the tax was to be considered unauthorized, as not for a proper public purpose.—*State* v. *Williams,* 185 Pac. 459.

Public Purpose. — The South Dakota supreme court, while recognizing that the amendments made in 1918 to the Constitution, authorizing the state to embark in various enterprises, evidenced a design to develop the resources of the state and its economic facilities yet did not indicate a purpose to abrogate or modify the article, declaring that taxes should be levied for public purposes only. It therefore held that an act of the legislature appropriating a sum of money to compensate an individual for injuries sustained by him while in the militia service of the state, was in violation of the article referred to, as it did not constitute an appropriation for a public purpose.—*Mackey* v. *Reeves, State Auditor,* 175 N. W. 359.

Public Purpose — Soldiers' Bonus.—Further consideration was given by the Wisconsin court to soldiers' bonus legislation, heretofore noted, in its decision in passing upon the Educational Bonus Act (Ch. 3, Laws 1919). Objections raised in the cash bonus case (175 N. W. 589), were raised in this case, and it was urged besides that the state was lending its aid to private individuals, was creating a debt for a private purpose and was aiding religious schools. In the decision in this case, the court examined at length the fundamental conceptions of our system of government and obligations of the citizen to the federal and state governments respectively, arriving at the conclusion that the gratuity to the soldiers was clearly justified as a public purpose. The other objections were easily met by the holding that the act did not create a debt but that the educational assistance offered was a pure gratuity; that the provisions for meeting increased expenses of private schools did not result in enriching them but in merely reimbursing them for such increased costs. —*State* v. *Johnson,* 176 N. W. 224.

Tax Limitations—Certain Expenses Not within the Limitation.—A statute of Idaho provided that where the new boundaries of a county should divide a school district, the property and indebtedness of the district should be divided and the cost assessed upon each prorata according to assessed value. In a case arising under this statute a school district declined to pay a judgment recovered against it for such expense, urging that the constitution prohibited it from incurring indebtedness without a vote of the electors. The court held that as this obligation was imposed by law, it was not within the constitutional limitation. It further urged a limitation prohibiting the levy of a tax in excess of 10 mills, which would be exceeded by the levy required to pay the judgment. The court held that the statute authorizing the contracting of the debt carried with it authority to levy a tax necessary to pay the same. — *Independent School Dist. No. 12* v. *Manning,* 185 Pac. 723.

" Tax " — " Franchise Payment ".—The Pennsylvania court held that an annual charge upon a street railroad imposed in the ordinance granting permission to occupy the streets is the price paid by the company for the rights and privileges, and amounts to the purchase of a franchise which the municipality had a right to sell. " It rests upon contract and is in no sense a tax. . . . Neither is it a license fee, collectible under the police power. . . . Nor is it governed by the rules applicable to taxes and license fees." — *Valley Rys.* v. *Borough of Mechanicsburg,* 108 Atl. 629.

Jurisdiction — " Municipal Corporation ".—In passing upon the legality of a tax the Louisiana court held that a road district, authorized to levy taxes for road improvements was not a " municipal corporation " as used in article 85 of the constitution; that only cities, towns and villages were included in that designation. —*William T. Joyce Co.* v. *Police Jury,* 83 So. 587.

EXEMPTION—PROPERTY OWNED BY MUNICIPALITY.—The validity of an exemption of city property surrounding a reservoir was contested because rentals were obtained therefrom, which was claimed to withdraw it from the exemption because "held for pecuniary profit". The claim was rejected with citation of numerous authorities, the rental obtained being held merely incidental.—*City of Osceola* v. *Board of Equalization,* 176 N. W. 284.

LEASE IN PERPETUITY AS TAXABLE PROPERTY — EXEMPTION BY CONTRACT.— The Kentucky court of appeals held that a lease for 99 years, with provision for renewal for like period, constituted a separate and distinct property from the ownership of the fee, and was therefore taxable to the lessee, the case being an exception from the ordinary rule, being similar to the case of oil and gas leases.

The lease was executed in 1839 by the city of Lexington and contained a clause exempting the property from city taxes. Upon a full discussion of this clause and citation of authorities it was held that the city had no authority to grant the exemption except upon valid consideration and for a reasonable period, otherwise such an exemption would be held in violation of the Bill of Rights, guaranteeing that all taxation should be uniform and equal.— *Purcell* v. *City of Lexington,* 216 S. W. 599.

PRIVATE PROPERTY ON LANDS CEDED TO THE UNITED STATES FOR CANAL PURPOSES.—The Michigan supreme court held that personal property of a contractor engaged in construction work on lands ceded to the United States for canal purposes was not beyond the jurisdiction of the state and was subject to taxation, the jurisdiction of the United States not being exclusive. — *Oscar Daniels Co.* v. *City of Sault Ste. Marie,* 175 N. W. 160.

REAL PROPERTY — TAX CERTIFICATE.— In a recent Wisconsin case that a tax certificate was real property was held settled by the decision in *Eaton* v. *Supervisors,* 44 Wis. 489, which has never been overruled. Accordingly the certificate involved in the instant case became assets in the hands of an executor and could not be assigned by him but passed to the trustees to whom the real estate was devised by the will.—*Madler* v. *Kersten,* 175 N. W. 779.

CREDITS—FOREIGN CORPORATION—CONDITIONAL SALES—"UNCLEAN HANDS".— A foreign sewing machine company was assessed for the machines as property in the state of Ohio. Upon the trial the company introduced evidence of its method of sale which showed that the title passed to the purchaser with mortgage back. It was thereupon held that the machines were not properly assessed to the company, but as it returned no credits and as such credits were held taxable to it, the court refused relief upon the ground that the company was in fact, by what amounted to fraud, seeking to avoid all taxation and thus came into court with "unclean hands".— *Singer Sewing Machine Co.* v. *Cooper,* 261 Fed. 635.

ESTATE TAX — PROPERTY PASSING UNDER GENERAL POWER OF APPOINTMENT —RULE IN PENNSYLVANIA.—In a suit in assumpsit by the executor to recover that portion of an estate tax resulting from the inclusion in the gross estate of certain property as to which the decedent exercised by his will a general power of appointment conferred upon him by the will of his mother, Judge Dickinson directed judgment for the plaintiff, holding that the appointed property was not "after his (the decedent's) death . . . subject to the payment of the charges against his estate," within the meaning of the statute, since any rights of the creditors of the decedent to such property came to them not as creditors, but as appointees of the decedent.— *Pearce, Executor* v. *Lederer,* 262 Fed. 993.

FEDERAL ESTATE TAX — INTEREST — PENALTY. — Administratrix of person dying abroad, because of war conditions, failed to make estate tax return until lapse of two years five months after decedent's death, causing assessment of interest. She filed petition praying district judge to recommend to Secretary of Treasury remission of interest, under authority of Section 5292, R. S., empowering judges to recommend remission of penalties. HELD: Power conferred is to submit recommendation based on facts. Controversy here involves question of law—whether interest assessed is or is not a penalty. Under circumstances

court declines to act.—*Mactavish* v. *Miles, Collector,* 263 Fed. 457.

INHERITANCE TAX—INTANGIBLE PROPERTY OF NON-RESIDENT. — The Louisiana court has recently held that the inheritance tax law of that state applies to intangible property consisting of securities owned by a non-resident decedent, kept in a bank in New Orleans, overruling its former decision in *Succession of Harrow,* 73 So. 683. —*Succession of Popp,* 83 So. 765.

INHERITANCE TAX—JOINT PROPERTY.— The joint ownership of property has always been considered an artificial and technical estate, with the limitation over to the survivor, and such right of survivorship created by law is one on which the state may impose the burden of a tax.

Where S., who was unable to write well, and was old and infirm, and unable to travel, deposited his money in the name of himself and V., to be drawn by either or the survivor, for the sole purpose of having such other person withdraw money to the needs of S., no part of such account on the death of V. was subject to a transfer tax.—*In re Van Vranken's Estate,* 179 N. Y. Supp. 752.

INHERITANCE TAXES—EXECUTORY CONTRACT OF SALE — DEDUCTION OF ENCUMBRANCES. — The interest of the vendor under an executory contract of sale is taxable as personal property under the Minnesota statute, and where the vendor died a resident, such interest is subject to the inheritance tax. The value of a decedent's real estate is measured by the value of the decedent's interest therein, determined by deducting the encumbrances from the value of the land. — *State* v. *Probate Court of Ramsey County,* 176 N. W. 493.

INHERITANCE TAX—WHAT LAW EFFECTIVE — TRANSFER IN CONTEMPLATION OF DEATH.—Taxability under the inheritance tax laws of California of a transfer made by a decedent in his lifetime must be determined by the law in effect at the time the transfer was made.

Under the California law, imposing a tax on transfers without valuable and adequate consideration, in contemplation of grantor's death, or intended to take effect in possession at or after such death, the transfer must be without an adequate consideration, as well as without a valuable one, to be subject to the tax, and must be made either in contemplation of death or intended to take effect in possession or enjoyment at death. In determining whether there is adequate consideration, the rule applicable in specific performance cases must control.

A transfer by a husband and his wife of certain realty to their children, subject to a life estate in the husband, HELD, under the evidence, supported by adequate and valuable consideration where it appeared that the actual consideration was not only a waiver by the wife of all her interest in the community property, but constituted a complete alteration of the relation between husband and wife, as authorized by Civ. Code, Sec. 151, notwithstanding that part of the consideration was not susceptible of exact valuation in money. — *In re Brix's Estate,* 186 Pac. 135.

INHERITANCE TAX — JURISDICTION TO IMPOSE — TRANSFER TO TAKE EFFECT AFTER DEATH. — Whether a transfer by way of trust is one intended to take effect at or after the grantor's death does not depend on whether the trust is revocable, but the test is whether the property passes with all attributes of ownership, independently of the death of the transferor.

Where the devolution of title to property involves a succession or inheritance tax, it is governed and controlled by the laws of the forum imposing the tax if the transfer is within the jurisdiction of the tax authorities, and imposition of such tax cannot be denied on the ground that it would interfere with comity between states, for it is a well-settled rule that no foreign law will be enforced in a state, if to enforce it will contravene the express statute law or expressed public policy of the forum or is injurious to its interests. — *Nickel* v. *State,* 185 Pac. 565.

INHERITANCE TAX—PROCEEDS OF REAL PROPERTY IN FOREIGN STATE SOLD TO PAY LEGACIES—DEDUCTION OF TAXES.— Inheritance taxes are not taxes on property, but on the succession which is not a natural right; hence, where an Iowa testatrix, owning real property in Nebraska, provided pecuniary legacies far in excess of her personal estate, so that it became neces-

sary to sell Nebraska real estate to pay the same, a conversion of the real estate thus needed to be sold will be implied, and the proceeds held liable for the collateral inheritance tax imposed by Iowa, even though the Iowa executor, who was appointed ancillary executor in the state of Nebraska, never brought the proceeds within the state of Iowa, and even though under the laws of Nebraska a similar tax was imposed and collected; there being no conflict between the taxing powers of the states.

Where part of the real estate was located in the state of Iowa and part in the state of Nebraska, the imposition of the Iowa collateral inheritance taxes should be on the basis of marshaling of assets, taking into consideration the amount of the estates in each jurisdiction, it appearing that the testatrix, after providing several pecuniary bequests, devised and bequeathed the residue to several beneficiaries, including her son, etc.

Under the Iowa Act providing for the deduction of debts in assessing collateral inheritance taxes, HELD that federal income tax which accrued shortly after testatrix's death, as well as the real estate tax imposed by the foreign state upon land owned by testatrix therein, might be deducted, as could expenses for repairs on farm buildings made before the testatrix's death, but that the federal inheritance taxes and real estate and income taxes imposed after the death of testatrix cannot be deducted. — *In re Sanford's Estate,* 175 N. W. 506.

INHERITANCE TAX — CHARITABLE BEQUEST. — Testator's residuary gift to trustees to pay net income, in the discretion of the trustees, to the use and benefit of a town, was for a valid public charity, within the definition of a "charity" as a gift for application consistent with law for the benefit of an indefinite number of persons by erecting and maintaining buildings or works or otherwise lessening the burdens of government, the authority of the trustees in determining application of income, extending to selection of subjects strictly public and therefore charitable.—*Peirce* v. *Attwill,* 125 N. E. 609.

INHERITANCE TAX—TRANSFER TO TAKE EFFECT AT DEATH.—If the actual intention of the parties to a deed be that the possession and enjoyment of the lands conveyed thereby are to be postponed until the grantor's death, the transfer of such lands is subject to inheritance tax, notwithstanding such evidence is not in writing but can only be shown by parol.

Where an owner of realty granted life estates therein to his wife and daughters, but continued to control the property conveyed and to collect its rents without an accounting, evidence HELD to support a finding that the parties intended grantor to retain control and possession of the property until his death, and that hence the transfer was subject to tax under inheritance tax act.—*People v. Shaffer,* 125 N. E. 887.

DEVISE PURSUANT TO CONTRACT, PASSES TO DEVISEES BY WILL WITHIN INHERITANCE TAX LAW. — Where decedent, in consideration of the agreement of petitioners to provide her suitable maintenance for life, agreed in turn to pay them $300 in cash, and to make a will devising her house to them in fee simple, both of which she did, the house property passed to petitioners by reason of the will on decedent's death, and the devise is subject to an inheritance tax under the Massachusetts law payable by petitioners and not by decedent's estate, in view of the failure of the contract and will to provide on the subject.—*Richardson et al.* v. *Lane,* 126 N. E. 44.

FEDERAL STAMP TAXES ON ISSUANCE OF CAPITAL STOCK. — Issuance of certificates of stock of one class in conversion and exchange for stock of another class held not required to be stamped as an "original issue", for the reason that Congress intended to tax transactions by which substantial consideration passed, and also for the reason that Congress, in reenacting a similar provision of the revenue acts of 1898 and of 1914, which had been construed by the Treasury Department as not requiring stamps upon certificates issued for conversion purposes, had approved and made part of the present act such former practical construction. T. D. 2752 considered. Decision of the District Court affirmed. — *Edwards* v. *Wabash Railway Co.,* U. S. C. C. A., 2nd Circ.

Bankruptcy Act — Priority of Federal Taxes.—Section 3466, Revised Statutes, giving priority over administration expenses to claims against insolvent estates for taxes is superseded by Section 64 (a) and Section 64 (b) of the Bankruptcy Act, allowing priority of claims for taxes only as to "creditors", because that term as defined by the Act does not include trustees or others acting for the estate, and federal tax claims are, therefore, subordinate to administration expenses of insolvent estates. —*Smietanka* v. *Zibell,* U. S. C. C. A., 7th Circ., Jan. 1920.

Federal Stamp Tax — Unstamped Note. — Where a note which the revenue laws require to be stamped is not stamped, it is not "complete and regular on its face," within the meaning of the Iowa Code Supp. 1913, and a purchaser of such a note is not a holder in due course, and must meet any defense that was good against the payee who transferred it.—*Lutton* v. *Baker,* 174 N. W. 599.

Federal Tax on Bankers. — The Act of Oct. 22, 1914, imposing on bankers a tax of $1.00 for each $1,000 of capital used or employed, is to be strictly construed, and therefore a corporation engaged in insuring titles, executing trusts, safe deposit, real estate and banking, is subjected to a tax only upon so much of its capital as actually is used in banking. Reserve funds of the corporation permanently invested are not to be included in the banking capital subject to tax unless actually used therefor, although the possession of such funds indirectly assists the banking department by enhancing the amount of credit obtainable. The case of *Treat* v. *Farmers' Loan & Trust Co.,* 185 Fed. 760, was cited and approved and also the case of *Anderson* v. *Farmers' Loan & Trust Co.,* 241 Fed. 323. — *Real Estate Title Ins. & Trust Co.* v. *Lederer,* 263 Fed. 667.

Federal Sales Tax—Sale. — When a person buys a chassis and sends it, together with the kind of body he wants, to someone to have the body put on the chassis or sends the chassis to a body-builder to have a body put on it and it is then returned to him as an automobile truck, there has been no sale of an automobile truck. — *Rech-Marbaker Co.* v. *Lederer,* 263 Fed. 593.

New York Stock Transfer Tax—Effect of Failure to Affix Stamps.—Where an assignment of shares of corporate stock is made in another state, and delivery of the transfer is made in this state, the assignment is invalid, if Tax Law, Sec. 270, requiring stamps to be affixed to all sales and transfers of shares or certificates of stock has not been complied with, notwithstanding such other state has no such requirement.

In a suit to compel a corporation, its officers and directors to transfer certain shares of stock upon the books, it was not necessary for defendant to plead that no tax stamps were affixed to the assignment, as required by Tax Law, Sec. 270; payment of such stamp tax being an essential part of plaintiff's cause of action.

In a suit to compel a corporation, its officers and directors to transfer certain certificates of stock upon the books, the assignment of the certificates was inadmissible in evidence, where the stamps required by Tax Law, Sec. 270, had not been affixed, section 278 providing that proof of such assignment shall not be offered or received in evidence where no stamps are affixed.—*Luitwieler* v. *Luitwieler Pumping Engine Co.,* 179 N. Y. Supp. 463.

New York Stock Transfer Tax—When Tax Accrues.—The penal section of Tax Law, Sec. 278, requiring payment of tax on corporate stock transferred as a gift *inter vivos,* is, by Personal Property Law, Sec. 170, deemed to take effect when the indorsement is actually made, so that, where the husband died after making the gift to plaintiff wife but before indorsement of certificates, the wife, as administratrix of her deceased husband may, by order of court, properly indorse such certificate, affixing and canceling the stamps required by statute, and then the corporation shall transfer upon its books such shares to plaintiff.—*Reinhard* v. *Sidney B. Roby Co.,* 179 N. Y. Supp. 781.

New York Stock Transfer Tax.—Readjustment of debt agreement of stockholders and voting trustees Held not to constitute double transfer of stock, so as to require a double transfer tax, although the legal title to the stock was passed from one set of voting trustees to another set by direction of adjustment managers, who had the right to have the legal title passed to

them or to direct a transfer.—*Hudson & M. R. Co.* v. *State,* 125 N. E. 202.

SPECIAL DISTRICT TAX. — In order to support a tax levied for special district purposes it must appear that the owners of taxable property located within the district have had an opportunity to vote upon the proposition or that other owners therein have voted to impose the tax upon the land in question. So held in a suit to enjoin the collection of drainage district taxes where the property of the taxpayer was not properly designated as within the district area when the proportion was submitted to the voters, though actually within the district.—*Burgnieres Co.* v. *Peterman,* 83 So. 756.

DELEGATION OF TAXING POWER—CONSTITUTIONALITY. — Assuming that Priv. Acts, Tenn. 1919, Ch. 745 and 791, relating to a soldiers' and sailors' memorial, require a mandatory tax levy by the county of Davidson and by the city of Nashville in aid of bonds authorized by such statutes, they do not, for that reason, violate Const., art. 2, Sec. 29, as to delegation of legislative power to tax. — *Hill* v. *Roberts,* 217 S. W. 826.

RELIEF FROM PENALTIES—JURISDICTION OF COURTS TO GRANT. — As penalties or interest are imposed by statute upon taxpayers who are in default, in order to insure prompt payment of taxes, which are necessary for the support of the government, the courts have no authority to relieve taxpayers therefrom.—*Rixey's Ex'rs* v. *Com.,* 101 S. E. 404.

EXEMPTIONS—PROPERTY OF U. S. SHIPPING BOARD EMERGENCY FLEET CORPORATION. — Property acquired and owned by the United States Shipping Board Emergency Fleet Corporation, owned and operated solely by the United States for governmental purposes, HELD not subject to state taxation.—*U. S.* v. *Coghlan,* 261 Fed. 425.

TANGIBLE PROPERTY IN WAREHOUSE.— Where tobacco was purchased by a nonresident of Kentucky between November, 1916, and May, 1917, and transferred to a certain county in that state to be graded, assorted, and prised, prior to shipment to England, but, owing to a shortage in shipping facilities, it was stored in warehouses, where it was situated on September 1, 1917, the assessment day, the tobacco was taxable in such county.

The burden is upon the party claiming an exemption from taxation to clearly establish that he is entitled to it, and no presumption will be indulged in his favor; the presumption, on the contrary, being that all tangible personal property in the state on the assessing date is subject to assessment at the place where it has an actual situs.—*John Ross & Co.* v. *Board of Sup'rs of Daviess County,* 217 S. W. 677.

INTANGIBLE PROPERTY OF ESTATE HELD BY TWO TRUSTEES, ONE A RESIDENT AND ONE A NONRESIDENT. — Bonds not expressly exempted by the Tax Act nor excluded therefrom, and which are located in New Jersey and are a part of an unsettled estate of a decedent are taxable at their true value in the taxing district in the state wherein the decedent resided at his death, though one of two executors and trustees is a nonresident of New Jersey.— *Yardley* v. *Essex County Board of Taxation,* 108 Atl. 299.

STOCK EXCHANGE MEMBERSHIP.—Membership in New York Stock Exchange owned and exercised by a resident of the state of Ohio is "personal property" having a taxable situs in state of domicile.

Domicile of owner is taxable situs of choses in action.—*Anderson* v. *Durr,* 126 N. E. 57.

SALES CONTRACTS AS PERSONAL PROPERTY. — So-called leases, under which lessees were to pay taxes and assessments, interest on principal, and keep the property insured for the benefit of the parties thereto, as their interest might appear, and requiring the grantor to deed the property to the grantee upon payment of the stipulated sums on or before maturity, were sale contracts, and were assessable to vendor for taxation.—*In re Spurgeon,* 126 N. E. 238.

PERSONAL PROPERTY TAX — "ANNUITIES". — An "annuity" is a yearly payment of a certain sum of money granted to another in fee, for life or for years, and

chargeable only on the person of the grantor, although the term is often used as designating a fixed sum, granted or bequeathed, payable periodically but not necessarily annually.

An installment certificate issued by an insurance company in exchange for a policy which had become a valid claim on insured's death, whereby the insurer obligated himself to pay the beneficiary certain semi-annual payments for a stated period and thereafter a final payment, HELD subject to taxation as an annuity, the situs of which followed the domicile of the annuitant.—*Wilkin* v. *Board of Com'rs of Oklahoma County,* 186 Pac. 474.

FEDERAL ESTATE TAX—DEDUCTION OF PENNSYLVANIA COLLATERAL INHERITANCE TAX. — The decision of the Court below (257 Fed. 812) was affirmed by the U. S. C. C. A., Third Circuit (262 Fed. 52), holding that the Pennsylvania Collateral Inheritance Tax, being an estate tax, was deductible in determining the amount of the net estate under the Federal Estate Tax Act of Sept. 8, 1916, Title II. The C. C. A. states in its opinion that this decision has no bearing on the 1918 Revenue Act, Title IV; the latter act providing that "Estate Taxes" are not deductible.—*Lederer* v. *Northern Trust Co. et ano.,* U. S. C. C. A., Third Circuit, October Term, 1919. Petition for Writ denied by Sup. Ct., May 3, 1920.

"TAX"—WATER RENTS AS A TAX.— The court of appeals of New York is referred to in a recent decision by a lower court, as having laid down the rule in *N. Y. Univ.* v. *Am. Book Co.,* 90 N. E. 819, that a rate or charge for supplying water, not based upon the amount consumed, but determined with reference to the "dimensions, value, exposure, use," &c., of a building, is a tax, but that where the charge depends upon the amount used, the transaction is a voluntary purchase. This rule was followed in a case where the validity of a lien for taxes was involved.— *Pines* v. *Traktman et al.,* 178 N. Y. Supp. 90.

"TAX", "IMPOST", "TOLL". — In a recent case it became necessary to determine whether a charge made for the use of a sewer, was a "tax" in order to decide a jurisdictional question. It was decided to be a tax and not an ordinary debt as claimed. — *City of Madera* v. *Black,* 184 Pac. 397.

RECENT PUBLICATIONS

EDITED BY HARLEY L. LUTZ

TAXATION OF REAL ESTATE IN ARGENTINA

To our fellow member of the National Tax Association, Sr. Jorge Fernández of Santiago del Estero, Argentina, we are indebted for a most interesting treatment of the real estate tax in Argentina. The report conveying this information is the *Memoria de la Dirección de Castastro* of the province of Santiago del Estero for the year 1918. It corresponds in general to the annual report of one of our State Tax Commissions. However, Sr. Fernández has exceeded the ordinary bounds of such a report and has given us a study of the valuation and taxation of real estate throughout the entire country.

For the taxation of real estate there are two sets of laws, the national law that controls the taxation of real estate in the City of Buenos Ayres and in the national territories, and the provincial laws controlling the taxation of real estate within the several provinces.

Under the national law, the value of urban property and of improved rural property is obtained by adding the "true value" (capital value) of the improvement to the average of the land values of the three preceding years. Uncultivated rural property and pasturage are valued at the "average sale price" of the last three years preceding the time of valuation.

The provincial tax systems are of most interest. With one exception, the provinces as well as the national government express the assessment in terms of capital value. Several provinces, however, con-

sider rental value in estimating capital value. The rates average about 5 per mil, but interesting classifications are made in several of the provinces. Some provinces impose a higher rate upon urban than upon rural property, e. g., Entre Ríos, where urban bears 6 mils and rural bears 5 mils; while other provinces impose a higher rate upon rural than upon urban property, e. g., Buenos Ayres and Corrientes. The latter province imposes a progressive land tax ranging from 4½ per mil on estates valued from 1 to 25,000 pesos (dollars) to 8 per mil on estates valued at 400,000 to 500,000 pesos, an additional ⅛ per mil being added for each additional 100,000 pesos value above 500,000. This tax is not calculated upon each parcel but upon the entire wealth owned by the taxpayer in the province.

In his review of the laws of the different provinces, Sr. Fernández points to the progressive principle of Corrientes as the most equitable to be found in Argentina. In all of the other states the proportional principle is followed with the exception of a few cases where special land taxes for road funds are levied at uniform amounts per hectare, irrespective of the value of the land.

In explanation of Sr. Fernández' preference for progressive land taxes, we must remember that in Argentina land ownership is concentrated to an extent unknown in the United States. It has been said by one of the former finance ministers of Argentina that in that country there exists the most notorious cases of *latifundia* to be found in modern times. The so-called land-monopoly in Argentina is perhaps even worse than that of Mexico, for in the latter country many of the great estates having hundreds of thousands of acres are composed of arid lands where small farming is impracticable, while in Argentina many of the larger estates are composed of tillable lands that could be broken up and farmed more productively as small estates. In fact, the land values have increased so rapidly in Argentina that owners of these huge estates have devoted their incomes to the purchase of more land, much of which has been withheld from cultivation, the owners depending upon the "unearned increment" to recoup all expenses incurred.

In this connection Sr. Fernández condemns the great inequality in the assessment of real estate. While all property in the same class bears the same rate and while the valuations are supposed to be assessed at the same proportion of true value, the valuations are, as a matter of fact, most unequal, especially so in the national territories. To be sure, the national law provides for a board of equalization to which any aggrieved taxpayer may appeal, but Sr. Fernández informs us that only the wealthy benefit by this court and that the poor bear heavily disproportionate burdens.

For purposes of illustrating the methods of assessing real estate, the example of the province of Cordoba is instructive. In valuing the land the assessor is expected to take into consideration among other things the quality of the land, proximity to markets and roads, and the average of sales for the last five years.

In the case of urban property, the basis used is rent "produced or capable of producing." The value of "uncultivated" urban property is based upon the last sales of adjacent properties less 20%. The "untaxing of buildings" is partly achieved by exempting all buildings exclusively devoted to agriculture, cattle raising, etc. Further allowances are made such as 90% of the area of lakes, 70% of "unproductive mountains," and 30 to 50% of land unadapted to the cultivation of cereals, but good for pasturage.

Other interesting provisions are found, as in Mendoza where in the case of the transfer of property the sale price shall constitute the assessed valuation if greater than the original assessment, unless it can be shown that the sale price was "notoriously higher than the real value"; in Entre Ríos where the taxable value is the sale value "calculated on the average of the sales realized in the province during the preceding four years"; in San Luis where the taxable value is 70% of the "current value"; and in Tucumán and other provinces where the taxable value is the "current selling value".

In addition to the survey of real estate taxation in the various provinces, Sr. Fernández presents important constructive suggestions for the classification of real estate, and for more scientific methods of valuing each class of land. While Argentina has naturally looked to Italy, France and Spain rather than to the United States for her criteria of valuation and of

taxation, it is believed that much mutual benefit will result from an exchange of ideas between the two great republics of the Americas.

And it may be of interest to North Americans to learn that several ideas of recent interest to us are to be found in practice in Argentina, such as the "untaxing of buildings," progressive land taxes, and even a sort of capital levy in Corrientes in the form of an additional tax of one per mil for the payment of the public debt.

H. A. E. CHANDLER.
Columbia University.

FAIR VALUE. By Harleigh H. Hartmann. Houghton Mifflin, 1920.

The valuation of property for tax purposes differs essentially from the fair value used in rate cases. The term "value" has been loosely used by the courts and administrative officials. It must constantly be borne in mind that value differs according to the purpose for which it is to be determined. Valuation for rate purposes is to be distinguished from valuation for taxation, capitalization, purchase and sale, eminent domain, etc. In rate cases what is sought is not value or worth, but investment or cost. Nevertheless "fair value" is the base upon which the rate structure is erected. Taxes are usually assessed on the basis of fair market or exchange values.

Tax men generally may turn to Mr. H. H. Hartman's volume on "Fair Value" with the assurance that they will find an enlightening discussion of the elements constituting fair value. Having defined the value concept, the author then proceeds with its application to valuation cases before the courts and public service commissions.

In the section of the book devoted to the valuation of tangibles, such items as land, buildings and the appreciation thereof are discussed. Among the intangibles, consideration is given to good will, franchises, patent rights, etc. A whole chapter is devoted to depreciation, and the presentation here as throughout the book is clear and informing.

The author attempts the hopeless task of reconciling legal dicta with economic doctrine. Tax men realize that the result is not worth the effort. He contributes a clarifying analysis of the original cost and reproduction cost theories. Although he strongly favors the former method of appraisal, the arguments in support of the latter are fairly set forth. A table of cases and an adequate index will be found helpful.

Mr. Hartman will be recognized as the author of an article in the March BULLETIN. This book was originally submitted as an essay in the Hart, Schaffner and Marx competition and was awarded first prize.

ALEXANDER HAMBURG.
New York.

ARTHUR, D. H. Municipal Advertising which facilitated Tax Collections. Printers Ink, October 23, 1919. British Columbia cities institute successful campaigns to prod up slow payers.

BRADT, S. E. Motor Fees as a Basis of Bond Issues. The American City, Vol. XXII, p. 350. April, 1920. Discusses the Illinois plan of pledging motor fees as security for road-improvement bonds.

DEWARIN, M., and RENAUT, F. P. La Taxation des benefices de guerre en Scandinavie. Journal des Economistes, Nov., 1919. Compares the taxation of war profits in the three Scandinavian countries.

DOUCET, R. Les Impots en regime demagogique. Monde Econ., Oct. 25, 1919. Believes the French government is courting popularity by levying light taxes on wage-earners and not pressing for their collection.

FREY, M. W. Needed Reform in the Federal Tax Laws. Trust Companies, Nov., 1919. Advocates repeal of excess profits tax and other changes.

FRIDAY, David. Prices and the Excess Profits Tax. Ann. Amer. Acad., Vol. LXXXIX, p. 163. May, 1920. Holds that the excess profits tax has not been an important cause of rising prices.

HAIG, R. M. British Experience with Excess Profits Taxation. Amer. Econ. Rev., Suppl. Vol. X, No. 1, p. 1. March, 1920.

HOARE, R. M. Incidence of Taxation. Char. Organ. Rev., Oct., 1919. Divides the British nation into classes and estimates the tax burden on each.

LUTZ, H. L. The Progress of State Income Taxation Since 1911. Amer. Econ. Rev., Vol. X, p. 66. March, 1920.

MARSH, A. R. Proposes federal tax on Stock and Commodity Exchange Transactions, and its Probable Effects. Economic World, Vol. 105, p. 687. May 15, 1920.

MARYLAND. Third Biennial Report of the State Tax Commission. Feb., 1920. pp. 111. Baltimore.

MASSACHUSETTS. Report of the Tax Commissioner for the Year ending November 30, 1919. Boston, 1920. pp. 200. Contains material of interest on the new tax laws.

MISSISSIPPI. Report of the State Tax Commission on Assessments for the Tax Year 1918. Jackson, 1919. pp. 77.

MISSISSIPPI. Report of the State Tax Commission for the Year 1919. Recommends the exemption of intangibles and the revision of the income tax by the addition of proper administrative and enforcement provisions.

NICHOLSON, J. S. The Burden of Public Debt and Taxation and the Return to the Gold Standard. Economic World, Sept. 20, 1919. The first step toward the gold standard should be the reduction of public expenditures and the cessation of public borrowing.

PEARSON, C. C. The Present Status of Tax Reform in North Carolina. South Atlantic Quarterly, October, 1919. Constitutional Amendments are to come before the voters in 1920 for ratification.

REED, R. R. Discussion of Surtaxes on Capital Profits. I. B. A. of A. Bull., December 4, 1919. The increase in capital value should not, when the property is sold, be regarded as income.

WOODWORTH, L. D. Dangerous Taxation Tendencies. Protectionist, October, 1919. Deplores the tendency to rely on state subventions rather than special assessments or local taxes and to extend the privilege of tax exemption.

THE NATIONAL TAX ASSOCIATION

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OBJECTS. The National Tax Association has no creed and conducts no propaganda. Its program is mutual education; its object is to make tax laws simpler, saner, more just and more effective. It welcomes representatives of every creed, school and interest, but its endorsement is given only to those ideas which have the unanimous approval of the voting membership at its annual conferences. With these limitations, its declared object is:

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